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STANDING COMMITTEE ON RESOURCES DEVELOPMENT
ANNUAL REPORT, WORKERS' COMPENSATION BOARD, 1983
TUESDAY, FEBRUARY 5, 1985
Morning sitting
Draft transcript

STANDING COMMITTEE ON RESOURCES DEVELOPMENT

CHAIRMAN: Barlow, W. W. (Cambridge PC)
VICE-CHAIRMAN: Villeneuve, N. (Stormont, Dundas and Glengarry PC)
Havrot, E. M. (Timiskaming PC)
Lane, J. G. (Algoma-Manitoulin PC)
Laughren, F. (Nickel Belt NDP)
Lupusella, A. (Dovercourt NDP)
McKessock, R. (Grey L)
McNeil, R. K. (Elgin PC)
Reed, J. A. (Halton-Burlington L)
Riddell, J. K. (Huron-Middlesex L)
Watson, A. N. (Chatham-Kent PC)
Yakubuski, P. J. (Renfrew South PC)

Substitutions:

Gordon, J. K. (Sudbury PC) for Mr. Villeneuve
Haggerty, R. (Erie L) for Mr. Reed
MacQuarrie, R. W. (Carleton East PC) for Mr. McNeil
McCaffrey, R. B. (Armourdale PC) for Mr. Havrot
McLean, A. K. (Simcoe East PC) for Mr. Watson

Also taking part:

Gillies, P. A., Parliamentary Assistant to the Minister of
Labour (Brantford PC)
Mancini, R. (Essex South L)

Clerk: Arnott, D.

From the Workers' Compensation Board:

Alexander, Hon. L. M., Chairman
Cain, D., Associate Secretary
Darnbrough, A. J., Executive Director, Vocational Rehabilitation
Division
McDonald, J. F., Executive Director, Claims Services Division
Reilly, R. D., Assistant General Manager, Executive Division
Russell, G., Executive Director, Financial Services Division

LEGISLATIVE ASSEMBLY OF ONTARIO
STANDING COMMITTEE ON RESOURCES DEVELOPMENT

Tuesday, February 5, 1985

The committee met at 10:09 a.m. in committee room 1.

ANNUAL REPORT, WORKERS' COMPENSATION BOARD, 1983

Mr. Chairman: We have a quorum so we will proceed with our activities of this session. We are here to review the annual report--I understood originally it was the annual reports for the years 1982 and 1983 but apparently it is just the one annual report that we have to proceed with at this time.

I think, when we set up our time schedule, we were thinking in terms of two reports and thus allowed an extra two days over and above what legislation calls for. It is up to the committee but I wonder if we need five days now that we only have one report.

10:10 a.m.

You think we do, do you, Mr. Lupusella? I thought maybe you might...

(Tape R-1010 follows)



(Mr. Chairman)

You think we do, do you, Mr. Lupusella? I thought maybe you might.

Mr. Lupusella: Yes.

Mr. Haggerty: You are not coming through too loud and clear.

Mr. Chairman: Is it not?

Mr. Haggerty: No, there is something wrong with the sound system.

Mr. Laughren: I wondered if, before we started, it would be appropriate to extend a special welcome to all of the senior honchos of the board who may be here for the last time in view of the impending restructuring of the board.

Hon. Mr. Alexander: I thought you did very well on my behalf.

Mr. Laughren: I will, but it may not be what you like.

Hon. Mr. Alexander: "On my behalf" means for me; I thought that is what you whispered in my ear.

Mr. Chairman: It is up to the committee. We had set aside the five days but, as I say, that was for the purpose of two reports. Do you feel that we need five days?

Mr. Lupusella: Mr. Chairman, with the greatest respect, I remember that in last year's discussions we were debating the sittings, that we were supposed to have a morning or an afternoon sitting. I think that the mandate of the Legislature was to sit for five days. When we start raising our concerns with the board's representatives, if there is need, of course, we are going to utilize the five days.

It does not make any sense at this time really to vote as to whether or not we need the five days. We have the five days which are within the mandate of the Legislature and, if there is time enough to use the five days, by all means we are going to use them, but I am not prepared to vote on that.

Mr. Laughren: Surely it makes sense to wait and see.

Mr. Chairman: That is fine with me. I just wondered whether anybody had any firm suggestions on that.

Mr. Lupusella: Mr. Chairman, before we are going to initiate the business of the proceeding, I do not think that it is routine, it is a genuine request that has been made by injured workers and organizations of injured workers across Ontario, and they expressed the desire that they would like to appear before this committee to make representations and raise their concerns on

(Mr. Lupusella)

behalf of injured workers.

I think a letter was sent to your attention, Mr. Chairman, and, even though I realize and know well the content of your reply, I think it is appropriate for us to move a motion to make sure that the question which has been raised by injured workers to appear before this committee and deal with the complicated and obscure areas of the act and the policies of the old act and the new act, so at least they will have an opportunity to be heard before this committee because the representatives of the board will be here to comment on their concerns.

Therefore, I am going to move a motion. Even though I understand your feelings and the rejection of the request which has been made by organizations of injured workers, I make the request that, in fact, they will appear before this committee even though it is not considered a standard practice for organizations to appear before a committee when the committee has to deal with a specific camera report.

At any rate, because we are dealing with a report which affects the lives of injured workers across Ontario, I think it is appropriate and I move a motion that this committee will accept the request of injured workers to appear before this committee to make their representations.

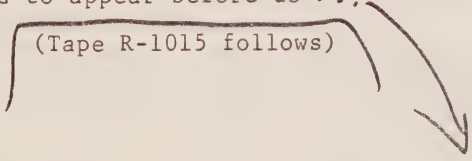
Mr. Chairman: Mr. Lupusella moves that this committee accept the request of injured workers to appear to make their representations.

Is there a seconder to the motion?

Mr. MacQuarrie: Mr. Chairman, I recall on previous occasions with this committee that injured workers and a number of other groups had made presentations. Is this, in effect, a request to throw it open to all and sundry to appear in the limited time we have available and make their presentations? I am just raising the question.

Mr. Laughren: May I respond to that, Mr. Chairman? Perhaps it would be helpful to know whether or not any other groups have requested to appear before us . . .

(Tape R-1015 follows)



(Mr. Laughren)

any other groups have requested to appear before us and before the board this week and next.

Mr. Chairman: Not to the clerk, no, they have not.

Mr. Laughren: No. There is one group that has expressed an interest in it, for obvious reasons, and that same group has been very helpful to the committee in the past. I think that it is not at all, by any stretch of the imagination, an unreasonable request and one that I think would benefit the committee and the compensation board because I believe that, if you were to get a senior official of the board in a quiet moment in a corner with a drink in his or her hand, they would admit that they are going to need help in the implementation of the new act, so I think it would be very useful to have the injured workers appear before the committee.

I am not suggesting, and neither are they, that they tie up the committee for a long period of time but simply to present their brief and to respond to any questions that committee members might have of them. I really believe it would be helpful. I do not think it should be this morning but I think that it should be later on in the committee hearings.

Mr. Chairman: Are there any other comments at this time?

Mr. McLean: Mr. Chairman, did they not present a brief at the same time as the rest of them did when they were reviewing the act?

Mr. Chairman: Yes, they appeared before us on several occasions during the review of Bill 101.

As I understand it, the legislation--I do not have a copy of the act, unfortunately--allows for three days to review the annual report of the Workers' Compensation Board. Tradition has had it that we, as a committee, have had the members of the board here before us and, on occasion, officials of the ministry, to question them. It has not been the practice or custom, nor has it ever happened, as I understand it--

Mr. Laughren: Has the clerk checked that out, as to whether or not it says only three days?

Mr. Chairman: I had asked him to, yes, before I replied to Mr. Franco's letter. It has not been the custom or practice to have witnesses and delegations, other than those from the board or from the ministry, for this particular purpose.

Mr. Lane: Mr. Chairman, it seems to me that we could be severely criticized if we hear one group of people and then not make it known to other groups that appeared before us when we were discussing Bill 101 that that is happening; I think that would be unfair.

(Mr. Lane)

As I recall the discussion on Bill 101, we made extra time available to the injured workers. I just feel that to all the groups that came before us it would be impartial if we heard one group and did not make that privilege available to other groups.

Mr. Laughren: It would be helpful to me if the clerk would tell us what is it that says it is three days. Where is that ruling? Is it the act or is it the standing order of the Legislature; who says it is three days?

Mr. Lupusella: The standing order, there is no provision in the act which says--

Mr. Laughren: Is it the standing order that says three days? Where did you get your information that says it is only three days? Do you say you got it through the clerk?

Mr. Lupusella: There is no provision in the act about the length of time.

Mr. Chairman: It is referred to the Legislature for referral to a standing committee. I am sorry, I back down on that; I have been corrected by the clerk.

Mr. Laughren: You put the clerk in an impossible situation.

Mr. Chairman: No, I have been corrected by the clerk now and it is not an impossible situation because he has corrected me. It is an automatic referral to a committee and normally, by tradition, it goes to this particular committee. There is no time; we are setting aside the number of days now.

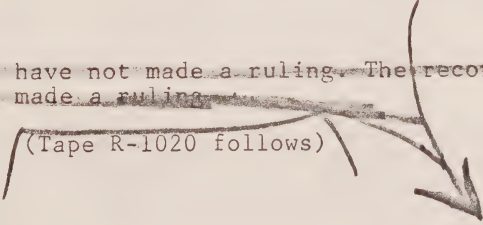
What we are dealing with is the motion and the motion, in fact, suggests that we allow outside witnesses to appear before us.

Mr. Laughren: You test the goodwill of the committee when you make a ruling like that based on nothing.

10:20 a.m.

Mr. Chairman: I have not made a ruling. The record will state that I have not made a ruling.

(Tape R-1020 follows)



(Mr. Chairman)

~~We are setting that aside now.~~

What we are dealing with is the motion and the motion, in fact, suggests that we allow outside witnesses to appear before us. The motion suggests that we allow outside witnesses to appear before us.

~~Mr. Laughren: I tell you, you test the goodwill of the committee, Mr. Chairman, when you make a ruling such as that, based on nothing--~~

Mr. Chairman: I have not made a ruling.

Mr. Laughren: You really do.

Mr. Chairman: I have not made a ruling.

Mr. Laughren: I know, but because--

Mr. Chairman: Hansard will state that I have not made a ruling on it.

Mr. Lupusella: If I may diffuse this issue, I would like to remind your colleagues, the Conservatives members, that the Conservative government is willing to listen and in the past spent a lot of time on listening to the problems of people. Now it is a good way to demonstrate the goodwill to listen to injured workers. They would like to bring to the attention of the government and, specifically, this committee a concern which affects their livelihoods, their lives.

If you, Mr. Chairman, and your colleagues would like to be consistent with the political motto across the province that the Conservative government is willing to listen, here is a chance for you to really listen to what is going on in the real world.

Mr. Chairman: Mr. Mancini, did you have your hand up? Did I see your hand a moment ago?

Mr. Mancini: Mr. Chairman, we would support the motion made by the New Democratic Party. We see no problems in hearing this group who wants to make a submission. If there is a problem with time, maybe the committee can get together and decide on a global amount of time that they would give to outside witnesses. We would probably be willing to go along with something like that as a compromise to get the session under way. We do not think our work is being compromised in any way by hearing a submission by a group that has been interested in these problems for many years and actually has done a good deal of beneficial work for the members of the Legislature. They have brought up a good many items that have helped us in our cause to make things better for injured workers. I do not know why we have so much acrimony here this morning just to hear a group make a submission.

Mr. Chairman: Is there any further discussion on the motion?

The motion reads--and correct me if I am wrong, Mr. Lupusella--that the committee accepts the request of the Association of Injured Workers' Groups to appear before the committee during consideration of the annual report of the Workers' Compensation Board. You are all familiar with the motion.

Those in favour of the motion?

Are you in favour of the motion, Mr. Mancini?

Mr. Mancini: I am not a voting member.

Mr. Laughren: He is only the labour critic.

Mr. Chairman: Those opposed to the motion?

Mr. Lupusella: Unbelievable.

Mr. Chairman: The motion is defeated.

Mr. Laughren: May we have a recorded vote on that?

Mr. Chairman: A recorded vote? Those in favour?

The committee divided on Mr. Lupusella's motion, which was negatived on the following vote:

Ayes

Haggerty, Laughren, Lupusella, McKessock.

Nays

Gordon, Lane, MacQuarrie, McCaffrey, McLean, Yakabuski.

Mr. McCaffrey: May I just clarify something? Mr. Mancini is a substitute, as I am, and said that he could not vote. I respect that he said he does not think he could vote because he did not have a slip submitted. Was my slip submitted?

Mr. Chairman: Yes, it was. We have one substitute slip from your committee. Who is on the substitute slip?

Clerk of the Committee: Mr. Haggerty for Mr. Reed.

Mr. Mancini: Mr. Chairman, I have some difficulty. I am a member of the standing committee on procedural affairs and that committee is sitting simultaneously. I have to go upstairs because we are sitting in camera. That is probably one of the reasons why the slip was not presented; they did not expect me to stay here this long.

Mr. Chairman: The motion is then defeated.

Mr. Lupusella: I would like to reiterate the principle that the Conservatives are abusing their power of having a

is

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(Mr. Lupusella)

majority government. That is why they are defeating the opposition motion.

Mr. Chairman: Thank you.

Mr. Laughren: I find you consistent, anyway.

Mr. Mancini: I would like to ask the committee if it would set aside one morning or one afternoon to visit the rehabilitation hospital and be given a tour of the hospital and be allowed to--



R-1025 follows

is
(Mr. Mancini))

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visit the rehabilitation hospital and be given a tour of the hospital and be allowed to talk to the patients at the hospital and, after the tour is completed, to have the people who are in charge of running the hospital, the director or whatever his title may be, have him and his top assistants come in for a certain period of time so that they can be questioned.

Unfortunately, over the last number of years I have received very many grave complaints about the operations of the hospital. They have come to a point where I think it would be very advantageous for this committee to make the tour and to have the people in charge respond to some of the questions we might wish to pose.

I think that decision should be made in camera. I do not believe we should tell them in advance we are going. I do not want a royal tour. I want a tour where maybe Mr. Alexander or someone else can take us through the hospital and explain to us the operations and what, indeed, they are supposed to be doing there.

Hon. Mr. Alexander: Mr. Chairman, I do not know whether I am out of order or not, but I find that a delightful suggestion. It seems to me that if people come from all over the world to visit the Downsview Rehabilitation Centre--and I am talking about Japan, the United States of America. Several of our colleagues from this country and other places have had the opportunity of looking at a hospital. I will say this, and I can say this without any hesitation or equivocation, the reason they come to the hospital is because they find that it is one of the more advanced institutions on the North American continent.

So I would be delighted, on notice, not that you are going to be given the royal tour or that we are going to clean the place up before you get there, because it is clean in any event and it will be business as usual. Any time you are prepared, I would certainly welcome the opportunity to attend with members of the committee and other members of parliament in order to give them the tour of the hospital. I think they will find it extremely enlightening, notwithstanding the several comments that you may have had with respect to the conduct that they receive at the hospital.

Mr. Mancini: I would like it also to be understood that we could at random talk to any of the patients in the hospital and ask them questions.

Hon. Mr. Alexander: I do not think there is any problem with that. That has happened before. I find it just unusual that, after being here for four and a half years, that somebody is enlightened enough to want a tour. I must say that, much to my amazement, not too many members of parliament--and maybe I will be checked on this--have asked for that opportunity. I am delighted that Mr. Mancini has thought of it and I hope the entire committee will have an opportunity of going to the tour of the rehabilitation centre.

Mr. Chairman: Mr. Mancini is one of our more enlightened members. I can only see one problem and it could be a procedural problem. The clerk is going to check this out. We will have to advise later on today. The committee has not been authorized by the House to "travel."

Mr. McKessock: There are no costs.

Mr. Chairman: It is a matter of us being away from the House, being elsewhere other than the House for our meetings. We will have that checked out and get an answer back. I certainly would enjoy the opportunity of attending there.

Mr. Mancini: Then it is agreed, pending getting this--

Mr. Chairman: The formality, that is correct.

Mr. Mancini: --on the formality of approval. We have agreed.

Mr. Haggerty: The Ministry of Transportation and Communications has the van over there that is used to pick up people. We can get that at no cost.

Mr. Chairman: It is not a matter of cost that we are concerned about. It is the authorization to meet other than in these buildings. That is going to be sorted out.

Mr. McKessock: Other committees have done it in the past.

Mr. Chairman: Mr. Haggerty, you had a question?

Mr. Haggerty: I just want a point of clarification. When the Minister of Labour (Mr. Ramsay) presented his estimates before the standing committee of the Legislature, he took about five hours to present his viewpoints on labour problems and what the government was going to do.

He discussed one particular area that I thought was of concern to the committee members here this morning. He touched on an issue that the ministry was going to take a look at and, I suppose, it would lead to compensation. I want to know if the committee members would be able to perhaps through disability be compensated.

The chairman is smoking. He is coming right to the point. There is coughing due to the smoking.

He talked about second-hand smoking. Is it right that we should be sitting in this committee here and be subject to second-hand smoking? Are we going to be covered by compensation?

10:30 a.m.

Hon. Mr. Alexander: I notice that I am smoking--

R-1030 follows

... would lead to compensation. I want to know if the committee members would agree to their being compensated, perhaps through disability. The chairman is smoking. He is coming right to the point; there is a problem because of the smoking.

He talked about second-hand smoking. Is it right that we should be sitting in this committee and be subject to second-hand smoke? Are we going to be covered by compensation?

Hon. Mr. Alexander: I am smoking. If it will make you more comfortable, I intend not to smoke for the balance of the committee. If I stand up periodically, you will know I have to hit the hall. My nerves get frazzled. At 63, I have been smoking for a long time.

Mr. Haggerty: I am sure that the chairman does not read the workers' compensation reports. One of the very touchy issues is that the claimant had been smoking. His compensation for industrial disease is almost wiped out. I bring that to your attention.

Mr. Gillies: Good point. I will certainly relay your concern to the minister.

Mr. Chairman: If there are no other matters of a procedural nature, we can proceed with the business at hand. First, we have the opening statement from the chairman which has been circulated.

Hon. Mr. Alexander: Once again, I am delighted to have the opportunity, together with several of my officials, to come before the committee in order to justify our existence during 1983 by way of the annual report. I am a little lost for words when I think of five days. I hope you will excuse me when I say this; I have some of the officials here, but you understand that business must go on. Therefore, it was not possible to have them all here because it would mean there would be a void in the administration. Some of them are here. If the questions that come eventually call for their expertise, they are on deck. In the meantime, we have only a few here.

Now, I would like the approval of the committee to bring to the front at least three of the board officials, Mr. John McDonald, the executive director of claims; Mr. Gord Russell, the executive director of finance; and Mr. Arthur Darnbrough, who is the executive director of Rehab. There are others who will be called because of the questions. I would like to have your permission to bring at least those three to the table.

Mr. Chairman: If those gentlemen would like to come to the table, we would appreciate that.

If members of the committee would like to be sure that certain officials from the board are here, perhaps those names could be passed to me or the clerk shortly.

Hon. Mr. Alexander: We will make them available.

Another point I would like to bring to your attention is that for the first time, as you will probably notice, the opening statement by the chairman is in both official languages. Everyone has a copy in English and one in French. I wanted to bring that to everyone's attention. This is also for the appreciation of the audience.

I certainly look forward to these meetings because they give me an opportunity to know the concerns of the members and those whom they represent in the constituencies of this great province of ours. It gives us an opportunity to know what is bothering them about the board's administration of the act. As well, it gives us an opportunity to explain our policies. In the long run, it means we will be better able to administer what I call a very important act.

It is part of an ongoing process. Basically, you all know that my job is primarily to see to it that policies, programs, and operations are in keeping with our objectives and needs at the board. There is another important part, which it is important to say, which is that we at the board try to represent it from the outside by way of speaking engagements, forums, to employers or injured workers, labour, community visits, radio, television, treaty agencies. I try to make it a policy that 30 per cent of my time is away from the office. It is encouraging to me to bring about a feeling that--

(R1035 follows)



(Hon. Mr. Alexander)

...television, treating agencies. I try to make it a policy that 30 per cent of my time is spent away from my office. It is encouraging to me to bring about a feeling that--I have heard it said that because of that attitude we have, the board is no longer a faceless bureaucracy. From all of this we can truthfully say that we are better able to administer the act more effectively, efficiently and equitably. We are looking forward to a very open and frank discussion. We welcome your criticism, constructive or otherwise. Be assured, notwithstanding what you may read or hear or what allegations may come to your attention, that we are trying our best to seek that state of perfection which all of us want to reach, even though I know, and everybody else knows, that is a marvellous goal but at times it is very hard to reach.

We are dealing with the 1983 report. In 1983, there were 344,758 new claims filed with the board, about 5,000 fewer than in 1982. We can look upon that as being the result of a very poor economy, restraint, and we must give credit to the safety associations. With their knowledge and expertise they have been able to permeate throughout Ontario the idea of safety consciousness. People are more safety conscious.

I have often said that the true answer in getting rid of the board is to bring about a very safety conscious society. The safety associations are doing their part in that regard.

Of those claims, approximately 43 per cent were accepted as lost-time claims involving time off work and compensation payments. Another 51 per cent were accepted as no loss-time claims for accidents necessitating medical treatment but no time off work beyond the day of the accident. The remaining six per cent included rejected claims and withdrawn or pending claims.

Payments to injured workers in that year and on their behalf totalled \$862 million in the form of compensation and benefit payments, health care payments to doctors and other treating agencies and vocational rehabilitation. The board awarded pensions totalling \$290 million under both schedules 1 and 2.

A reorganization of the claims services division, begun in 1982 to speed up the claims adjudication process, was continued during 1983. In 1983, claims adjudicators assumed responsibility for answering complex telephone inquiries regarding individual claims. In this way, injured workers received more direct access to the claims adjudicator responsible for handling their own claims.

In other developments aimed at enhancing services to workers, the vocational rehabilitation division undertook a program designed to better equip its counselling staff for the demands of rapidly changing economic conditions. Training programs for new counselling staff were updated and analytic techniques applied to the study of employment trends were refined.

(Hon. Mr. Alexander)

Some staff members undertook specialized training in ergonomics, or human factors engineering, as it is sometimes called, to strengthen their ability to assist employers in designing or altering the work place to accommodate disabled workers.

The numbers of workers referred for first-time vocational rehabilitation services in 1983 rose by 5.6 per cent over 1982 to 6,318, even though the total volume of claims decreased slightly in the same period.


Moreover, services were reopened for more than 1,800 workers resulting in a total of 8,126 referrals in 1982 or an increase of just over six per cent from 1982.

At the same time, service was completed in the field in 7,722 cases, an increase of more than 25 per cent over 1982. Division staff also found 4,237 new job opportunities for rehabilitated workers, which again represented an increase over 1982, in this case a 12.7 per cent increase.

10:40 a.m.

I have taken great pride in one of the problems that the board has pursued for the past few years which involved my attendance--you have probably seen it advertised--??worker comeback. We set certain goals in trying to convince the injured workers that this goal should be met by their encouragement and their acceptance of the program. This meant that several of the rehabilitation counsellors--there would be job counsellors, employment counsellors, who had travelled to various parts of the--

(R-1040 follows)



(Hon. Mr. Alexander)

programs that the board has pursued for the past few years which involved my attendant and that is--you have probably seen it advertised--back a comeback. We set certain goals in terms of trying to convince the injured worker that this goal should be met by their encouragement, if you will, and by their acceptance of the program.

This meant that several of the rehabilitation counsellors and/or the job counsellors, employment counsellors, would travel to various parts of the province speaking to employers primarily, holding out incentives which would allow them, in the long run, to hear the program whereby they could rehire a rehabilitated worker. I say too that in this particular instance that is another answer to some of the problems or issues that the board faces, and that is, first, as I alluded to earlier, to create a safe working environment--that is primarily the employer's responsibility--but last, but not least is to rehire the rehabilitated disabled worker.

We found that the program is quite successful and perhaps you would like to ask questions regarding that specific program, in due course.

Third, turning to the medical services division. Like the vocational rehabilitation division, it saw its work load rise during 1983. Medical services staff not only monitor the medical care afforded to injured workers and advise on their treatment, but also assess and pay health care benefits and related expenses, and participate in the development of claims adjudication guidelines.

In addition, staff of the division evaluate residual impairment in claims for pensions, identify industrial disease trends, determine cause and effect relationships and provide medical opinions for use in the adjudication of individual claims.

I know all of you realize that under Bill 101, once it comes into effect whether it is April 1 or July that we will now have an industrial disease panel which will be primarily looking at those issues which I have just elaborated on and I think it is going to be a very far-reaching and acceptable committee in terms of compensation for the future in this province.

In 1983, the number of claim files examined by medical advisers increased to almost 138,000 or about two and a half per cent over 1982.

The board paid out close to \$113 million in health care benefits and related expenses during 1983, up more than 12 per cent from the previous year.

(Hon. Mr. Alexander)

A step-up in activities at the board's hospital and rehabilitation centre in Downsview was in line with the increased demand on medical resources in general: while overall admissions to the centre dropped by some two per cent to 11,434, there was a marked increase in the number of patients completing the full treatment program. This 7.6 per cent increase to more than 6,500 reflects a rise in the number of complex cases handled at the centre in 1983.

Once again, I am delighted that Mr. Mancini has taken upon himself--and I think it has been generally agreed--that you, sir, together with your colleagues will have an opportunity of visiting the Downsview rehabilitation centre.

Some of our medical staff are also involved in research projects, the results of which we hope will be of value in the treatment of injured workers. In 1983, a study of the use of transcutaneous electrical nerve stimulators--"tens" units for short--demonstrated that these devices can control certain types of chronic pain.

A major study was begun into the subject of hand injuries, and during the year work progressed in these separate areas of spinal stenosis and amputations. As a result of one study, we know, for example, that patients undergoing treatment at our centre's amputee clinic are returning in large proportion to gainful employment.

As was seen in the areas of medical services and vocational rehabilitation, the work load also increased in the appeals area, with the number of appeals heard both by appeals adjudicators and by appeal boards up a significant amount compared with the previous year.

For instance, appeals adjudicators held 3,170 hearings, 7.1 per cent more than in 1982. Appeal boards held 1,092 hearings, an increase of 10.4 per cent from the previous year.

At the first level, that is the appeals adjudicator level, 44.5 per cent of appeals were allowed or partially allowed, compared with 34.1 per cent at the second level, being the...

R-1045-1 follows



(Hon. Mr. Alexander)

At the first level, that is the appeals adjudicator level, 44.5 per cent of appeals were allowed or partially allowed, compared with 34.1 per cent at the second level, being the appeal board.

Mr. Laughren: Would you mind if I asked a question on those numbers?

Hon. Mr. Alexander: Yes.

Mr. Laughren: Is it true that if you add the 44.5 per cent and the 34.1 per cent, which comes to 78.6 per cent, that is the number of appeals that are successful?

Hon. Mr. Alexander: I would think that is an excellent observation--or in part--just a minute--my colleague is saying--first, it says 44.5 per cent of appeals were allowed or partially allowed at the first level. That is at the adjudicator level, then from there--

Mr. Lupusella: We are talking about the claims review branch at the first level?

Hon. Mr. Alexander: No, I am talking about the appeals adjudicator.

Mr. Lupusella: Adjudicator, okay.

Hon. Mr. Alexander: Then from there, they are submitted further and of that amount, I guess we have to start adding and subtracting. In order to answer your question, we have to know what the base is.

Mr. Gillies: Yes, it would be 34.1 per cent of the lesser number.

Interjection: Of the remaining number.

Hon. Mr. Alexander: Of the lesser number.

Mr. Laughren: We can debate it later, but it would indicate to me that the claims review branch should be cleaning up its act a bit.

Hon. Mr. Alexander: Well, they are in there in the first instance.

Mr. Laughren: I know, but they have allowed these to go to appeal.

Hon. Mr. Alexander: Right.

Mr. Laughren: And there is a high number of them won.

Hon. Mr. Alexander: Right.

Mr. Laughren: I know we can debate that later.

Hon. Mr. Alexander: Fine. We will keep that question in mind because I know that you will.

As you more than likely know, appeal hearings are held at the board's head office in Toronto and in seven other locations throughout the province--Sault Ste. Marie, Sudbury, Thunder Bay, Timmins, Windsor, London and Ottawa.

Regarding the first level of appeal, appeals adjudicators hear appeals in the centres outside Toronto at a frequency based on the volume of cases.

At the second level, the appeal board holds hearings outside Toronto by making trips twice a month, visiting each of the seven centres on a rotating basis--that is the appeal board process.

To facilitate the preparation of an appeal, the board provides injured workers or their representatives with photocopies of their claim files on request when a disputable issue exists. A disputable issue is an adverse decision made by a review group within one of the operating divisions of the board, which has been communicated in writing to all parties concerned.

All material in the claim file is accessible to the worker or the worker's representative, with the exception of medical information which the board considers potentially harmful to the worker if disclosed directly. Such information is sent to the worker's physician to be released to the worker at the physician's discretion, and the worker or worker's representative is so advised.

I can best explain this by, if there is an accident or disability, as the case may be, and we are primarily dealing with a broken leg. If within any of the medical reports coming from primarily the treating physician, and that medical report refers to cancer, you can see the quandry the board would be in and this is what I mean by harmful, so that type of ??letter. Perhaps it is an exaggerated example, but it is that sort of thing that the board deems harmful. They do not hold it, but they would see to it that the injured worker can get it through his own physician.

As I was stating, a disputable issue is an adverse decision made by a review group within one of the operating divisions of the board, which has been communicated--I think I have read that part, have I not? Has anybody been following me?

Interjection: Page 11.

Hon. Mr. Alexander: Am I on page 11? I think so.

Since such information is sent to the worker's physician--I just want to see if you chaps were following this brief or not.

Mr. Lupusella: Very interesting.


Hon. Mr. Alexander: In 1983, the board found it necessary to invoke this safeguard, with respect to the harmful aspect I was talking about, in only 31 cases out of 7,702 requests for access to files, less than one half of one per cent of all requests. Just for information, I know we are dealing with 1983, but 1984, we find that the request for files are up to over 10,000.

Again, the employers are recognizing this particular right of access, and they too have the right of access, but only to those records which the board deems relevant to the issue in dispute.

10:50 a.m.

In 1983, the employer was granted full access to the file in 95 per cent of cases. I must state that when the policy was originally initiated and implemented, there was some concern by the employers that they would not be getting as much as they thought, but because of the relevancy factor, which is part of the policy, it is now quite sure and certain that the employer gets just about all of the file because most of the material or whatever you have in the file is of a relevant nature.

R-1050-1 follows



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~~in dispute.~~

In 1983 the employer was granted full access to the file in 95 per cent of the cases. I must state that when the policy was originally initiated and implemented there was some concern by the employers that they would not be getting as much as they thought. But because of the relevancy factor, which is part of the policy, it is now quite sure and certain that the employer just about gets all of the file because most of the material, or whatever you have in the file, is of a relevant nature.

If I can turn to the safety education of the board, realizing that this report covers the board's activities in 1983, events in 1983 in the area of occupational health and safety, which came to a fruition in 1984, deserves comment because of the importance of the subject.

Following two years of review and discussions with all interested parties, the board agreed to the formation of a new structure to administer its health and safety program effective July 1, 1984. This new structure, known as the Occupational Health and Safety Education Authority, replaces the safety education division, and it is responsible for implementing and administering the board's health and safety educational policy passed in June 1982.

I think what is extremely important to point out at this time, Mr. Chairman, is that the authority is tripartite in nature, with an administrator from management, an administrator from labour and a chairman acceptable to both parties. Each is a full-time board employee and, collectively, they are responsible to the board through the vice-chairman of the administration for the work of the authority.

Mr. Laughren: Who is the chairman.

Hon. Mr. Alexander: At this particular time the new chairman on deck now as of February 1 is, I believe, Bob Boucher formerly of British Columbia. Prior to that time it was Mr. Douglas ??Hamilton who had been a member of the corporate board. I think what is important about this thing, Mr. Laughren, is that at long last we have a triparty approach which, in my view, is a very significant step with respect to safety education.

As you know, the board funds through assessments the work of the nine safety associations, and an important responsibility of the authority is to review annually the programs and budgets of these associations. In 1983 the board granted more than \$26 million to support the work of the safety associations.

Supporting the authority is another new initiative, being the joint policy review board, which is composed of 12 members appointed by the board for a three year term following a board consultation with the labour and management communities. I must

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say at this time we are very pleased to note the co-operation that does exist between management and labour and, therefore, all 12 slots are now filled, six and six.

This review board acts as a forum for management and labour to address problems of health and safety education, and to make recommendations on these questions to the authority and to provide it with policy direction.

Throughout the year, a matter that I think is of interest to many members, or otherwise, the board continued to decentralize its services outside Metropolitan Toronto. In the London regional office the board completed a pilot project to investigate the administration of prosthetic devices, orthotics, including allowances. The project found this aspect of decentralization to be beneficial injured workers and, therefore, to become a permanent function, not only in London but also in the Sudbury regional office.

In addition, a feasibility study involving the decentralization of pension activities in the Sudbury regional offices was begun in 1984, and is still under way. I expect a conclusion--

Mr. Laughren: Please hurry up.

Hon. Mr. Alexander: Sir, we are here to serve, and when I hear the voice of Floyd Laughren crying in the wind, and I am here and my colleagues are here, certainly--

Mr. Gillies: From the wilderness.

Hon. Mr. Alexander: No, I did not say that. Make sure the record says that Alexander did not say "from the wilderness." No, but it is a good point.

Mr. Laughren: Is something that we support, like decentralization, a good point?

Hon. Mr. Alexander: It is a good point. That is why we are moving ahead, sir.

Let us carry on. During 1983, about 15,000 new claims were reported to the Sudbury regional office, and 19,800-odd were reported to the London regional office.

Mr. Laughren: Only half--

Hon. Mr. Alexander: Together the two regional offices manually processed 74,000-odd lost-time payments during the year, along with some 172,000 health-care benefit payments.

1055-1 follows



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...manually process 74,000-odd lost time payments during the year along with some 172,000 health-care benefit payments.

In addition to the two regional offices, the board has offices in Windsor, Kitchener, St. Catharines, Hamilton, Kingston, Ottawa, North Bay, Sault Ste. Marie, Thunder Bay and Timmins. Staff at these offices continually schedule visits to communities which themselves are not easily accessible to board offices. Visiting counselling services were regularly scheduled in 12 Ontario communities in 1983.

Further, in regard to communication with the public, and given the diversity of languages spoken by the residents of Ontario, the board is fortunate in having among its staff the capability to communicate in more than 40 languages. However, in keeping with the government's policy in providing service in the French language, the board in 1983 continued its planning to provide direct service in French to our francophone clients.

Of course, Bill 101 provides--this is a new departure and it is now enshrined in stone, as you would put it because of the activities of you, Mr. Chairman, and other members of the committee and/or other committees and, in general, MPPs--its services under this act: "Shall where appropriate be made available in the French language so there will be legislative authority for the board's initiatives."

We have undertaken surveys of staff to determine French language capability, and our human resources division has interviewed prospective suppliers of a testing program for staff to determine the level of French proficiency.

At present, we are working hard to make available in the spring of 1985, French or bilingual versions of more than 200 forms used in communicating with workers, employers and treating agencies.

The introduction of French language services involves substantial resources of money and time, as well as manpower, to determine the best way of going about providing these services without introducing any delay into our work of processing the claims of Ontario's injured workers to determine their entitlement to benefits, and paying these benefits.

The government co-ordinator, for your information sir, of French language services, Mr. Clément Sauvé, is kept fully informed of the board's progress through our French language co-ordinator.

Turning now to financial considerations, I will just touch on it because I know there will be several questions with respect to it, the year 1983 was a time of fiscal reassessment, marked by a series of discussions with employers about proposed increases in their assessment rates.

(Hon. Mr. Alexander)

Through these discussions, the board expressed public concern about the size of its deficit. In 1983, the gap between board resources and projected liabilities grew to some \$2 billion up from \$1.4 billion, or 44.8 per cent increase.

Of that \$2 billion, \$500 million represents a partial provision for possible cost of living adjustments which may be legislated in the future. However, if one takes full account of possible future cost-of-living adjustments, which seems reasonable I respectfully submit, given the annual adjustments legislated over the past decade, then the unfunded liability may reach \$5 billion or more.

The board's discussion with employers have been positive: industry was given a say in how the shortfall might be reduced, and how the situation can be addressed in the future.

Everyone involved now realizes that higher assessment rates are part of the answer, and that full provision for increases in benefit levels must be phased into assessment rates.

In 1983, assessments rose to \$789 million, an increase of just over 12 per cent from the previous year.


The ceiling on earnings used in computing compensation was raised from \$24,200 to \$25,500 on July 1, 1983.

However, the board postponed any increase in the ceiling on assessable earnings until January 1, 1984, recognizing that an immediate increase would impose undue economic hardship to employers.

11 a.m.

I must say at this time, in one way I am glad that we had the fallout-if you will-regarding a terrible economy because it has meant that at long last everything is in the open. It means now that under the board, the provincial auditor, the superintendent of insurance, our outside consultants--

(Tape R-1100 follows)



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(Hon. Mr. Alexander)

has meant that, at long last, everything is in the open. It meant now that the board, the Provincial Auditor, the Superintendent of Insurance, our outside consultants, members of Parliament and all interested parties all know what the problem is and all know, particularly employers, that we have to sit around the round table in order to bring about a solution to what is an issue that is of some concern to some people.

What I am saying is that the board, on several occasions and over the last two or three years in particular, has made a point of regularly meeting with employers who, as you know, are responsible for paying assessments to the board, in order to see whether we can devise a game plan and those discussions are still going on.

We are just about through so I hope I have not taken too much time but I think it is important to bring it into sight every now and again.

The estimated payroll reported by Schedule 1 employers increased slightly to \$41.8 billion in 1983 from \$40.8 billion in 1982. The number of employers covered under Schedule 1 rose to 164,000 in 1983 from 160,000 in 1981.

I trust that this very short review of the board's operation in 1983 will be of assistance to you. Having said that, I know that we are now in the year 1985 so there is a sort of backlog or hiatus or void there, but be sure that my colleagues and I are prepared to answer questions which they deem fit to ask.

Therefore, at this time, I am pleased to place my colleagues and myself at your disposal for questions. I know you have to hear from the two opposition parties by way of their statements.

That is all I have to say, Mr. Chairman. I thank you and the committee and the audience for your undivided attention.

Sitting with me is Mr. Cain--

Mr. Laughren: We thought he was part of this committee.

Hon. Mr. Alexander: I was going to say he was a very good friend of mine. It is a good thing I did not say that and then you forget the name of the chap who is the associate.

I want to thank you in particular for the treatment and the recognition that you gave to Mr. Cain because apparently he was here throughout the entire deliberations on Bill 101. I have a feeling that he was helpful and I am pleased that he was helpful and I want to commend him publicly now for the sensitivity that he has shown with respect to your questions and your concerns vis-à-vis Bill 101.

Mr. Laughren: Maybe because he was a ??nonadvocate.

Hon. Mr. Alexander: I thought he was excellent. He answered what you did not know and that is just what he was there for.

Next to him, of course, is Mr. Bob Reilly, who is the assistant general manager. Mr. Alan G. MacDonald, as you know, is the vice-chairman and general manager but he just recently underwent an operation and he is not able to be here with us this morning. I was speaking to him yesterday. He wanted to be here but unfortunately he cannot be. In his stead, we have an excellent colleague of mine, Mr. Bob Reilly, who is assistant general manager.

That is all I have to say, Mr. Chairman.

Mr. Lupusella: With the greatest respect, you mentioned Doug Cain. I want to make sure that he reported to you how very frustrated was the NDP during the final debate of Bill 101. Did he do that, or else I will change my mind about his performance?

Hon. Mr. Alexander: I did not hear the last part about the performance. Would you repeat that? You were impressed with his performance? Yes, I agree with you in that regard.

Yes, Mr. Cain reported either to me or to Mr. MacDonald on a day-to-day basis, sometimes two or three times a day if you people let him out. Yes, we had ongoing deliberations in terms of advising us as to the concerns of the committee, the real concerns, the various issues, the progress that was being made, possible amendments that would be entertained.

Mr. Chairman: Mr. Alexander, Mr. Cain certainly did a commendable job in serving on your behalf and on behalf of the committee during our deliberations on Bill 101. We were pleased with his assistance throughout the sittings.

Mr. Gillies: This is Doug Cain week.

Mr. Laughren: Is this an epitaph?

Hon. Mr. Alexander: When are you going to the people? I will be praying for you, Floyd.

Mr. Gillies: Mr. Chairman, if this in fact is Doug Cain week, I should just add that the minister and I and the ministry were delighted with the help he was able to provide us in formulating Bill 101 and, indeed, the valuable contributions from all members of the committee...

(Tape R-1105 follows)



...The minister and I and the ministry were delighted with the help he was able to provide us in forwarding Bill 101, and the valuable contributions from all members of the committee, especially our friends--I will not say it--

Mr. Lupusella: I have a question for the deputy assistant. Is the Minister of Labour (Mr. Ramsay) still a minister under the new administration of Miller's Ontario.

Mr. Gillies: Nothing has changed.

Mr. Lupusella: Oh, I was just wondering.

If I may, for the benefit of injured workers sitting here, members of this committee noticed that some workers came in late, and they do not know what is going on. If I may have your indulgence, they had the impression they would make a presentation before this committee. If I may, I would like to tell them that the motion was defeated, and the Union of Injured Workers and the injured workers' organizations are going to hold a press conference at one o'clock. I would like to tell them to be there. Could I say that in Italian, Mr. Chairman?

Mr. Chairman: Yes, if you would like to relay that, you may.

Mr. Lupusella: [Remarks in Italian.]

Mr. McKessock: Before we go on, Mr. Alexander had mentioned that we have a time lapse between the 1983 annual report and the 1985 one. I wonder if there is anything he would like to say to us as to changes in the--if there are any great changes in percentages in any area that have happened during the last year that would bring us up to date from what has transpired over the last year.

Hon. Mr. Alexander: I would certainly take that question as notice. Several of my colleagues would be able to answer about definitive cases with respect to statistical information. When you are ready to ask questions--we said that the claim volume was 344,000 in 1983. At the end of 1984 it was something like 388,000. That kind of information can be given to you. If not at the time you ask the question, it may be answered later on. Please do not hesitate to ask the question. It is only fair that you deal with 1983. We have the expertise to get involved with questions about 1984. Of course, we are only into the first couple of months of 1985.

Mr. Chairman: I wonder if we could reserve questions of that nature for the general question period. Now we would like to proceed with the responses from the two critics.

Mr. Haggerty: I thought my colleague raised a valid point. We should be dealing with the estimates on a current-year basis instead of two years behind. Sometimes there are important changes such as the new amendments to the act that may have some bearing on the direction the board will be taking in 1985. Nothing has been mentioned about Bill 101 and the effect it will have on the board's operation.

Son

(Mr. Haggerty)

R-1105-2

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I am deeply concerned about the 1983 report, particularly as it relates to the unfunded liability. It states: "The Workers' Compensation Board 'unfunded liability' has been rising steadily over the last few years. While the board has assets in cash, securities and property with which to cover part of the liability,..." It only says "cover" part of the liability. That is the question I would like to have someone reply to. "Which covers part of the liability--"any remaining liability represents a concern to those responsible for maintaining the stability of the province's workers' compensation system.

In 1983, the unfunded liability--the gap between the board's liabilities to injured workers and the board's assets available to pay these future costs--grew to approximately \$2 billion, up from \$1.4 billion in 1982."

11:10 a.m.

That is a substantial increase in the unfunded liability. The ??Wyatt report in 1983 suggested that the unfunded liability would be about \$4.9 billion. When I look at that, I think you might have to question the management of the board in this area. They are running into--

(R-1110 follows)



son
(Mr. Haggerty)

R-1110-1

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...assets available to pay these future costs moved to approximately \$2 billion, up from \$1.4 billion in 1982."

That is a substantial increase in the unfunded liability. I believe the Wyatt report in 1983 suggested that the unfunded liability would be around about \$4.9 billion. When looking at that, I think one might have to question the management of the board in this area. We are running into serious problems with the deficit. Bringing it down through the system of the workers' compensation, this is where we find the difficulties in the appeal procedures. It is moving from three months, six months, to a year, and perhaps longer, to establish an appeal at the final level, the third level. I suggest this may be the difficulty that is delaying the appeal system. It is not proceeding as it should be.

The undue hardship that is caused by the delays in the appeals system is unbearable to the injured worker. I recently went through a claim. The accident started in 1977. I believe there were 696 pages in that claim which accumulated in that short period of time. The hassle this person was getting from the board--I say it was a hassle because that is what it is. There was sufficient medical evidence to override any decision made upon a medical review at the board. We are dealing with specialists in this area. It was frightening to read in that report that at one stage the worker tried to commit suicide. That is only one. How many more other persons are there who are caught in this squeeze because of becoming an injured worker? I suggest perhaps this is the downfall of the workers' compensation system. There is not sufficient funding to look after the injured worker.

In one place in the minister's opening statement, he mentioned the \$2 billion unfunded liability. There are about \$500 million set aside for the cost of living increase that may be given to some of the injured workers injured 15 or 20 years ago. You are using this, but you are not using it in the proper manner. It should go to the injured worker. That is the point we should be looking at. I get it from the other side too, from the employers who are concerned about the costs and the unfunded liability that is there, and the increase in their assessment costs.


If I could pull some figures out of the air with suggestions to the board and the chairman, when you look at the overall structure of funding for the workers' compensation--he mentioned in his report the decline in the economy. We can see the revenues of the workers' compensation system may drop in that area. It was in 1977--my colleague the member for Nickel Belt (Mr. Laughren) would confirm this--dealing with the layoffs at the International Nickel Co., it was one of the top officials who said that their cost for the workers' compensation assessments was \$18 million, based on the number of employees. The work force at the International Nickel Co., even at Falconbridge, has gone down considerably. They are at about one third of their work force. So the assessments will be lower in this area. It is not coming in as one of the major contributors for the revenue of the workers' compensation system.

(Mr. Haggerty)

I think of a number of plants and industries which have closed their doors, closed shop, in Ontario and there is the loss of revenue to workers' compensation. There is a concern of the employers that they will have to pick up additional costs in this area. I think of one industry, which caused some serious health related problems--one could relate a number of them to this area--which closed its doors, cut back in its operations. The revenue would be lost. Then one would have a continuous number of injured workers, who, due to the industrial diseases that come up 10 or 15 years later, are without recourse because the industries have closed their doors. The industry is gone.

The government should help pick up the lost revenue. When there will new industries locating in Ontario, we will have to--

(R-1115 follows)



(Mr. Haggerty)

has closed its doors on that--the government and the worker's compensations--to help pick up the lost revenue. When you are going to have new industries located in Ontario, you are going to have to have them put up a bond in this particular area, like anybody else does, that you are going to have to secure your operations here. If you close the doors and there are a number of employees who have been injured there, it should not be that it has to go back to the ??older employees and say, "You are going to have to pick up this cost."

I suggest that is an area you should be looking at to help bring the worker's compensation down to a level where you are operating without a deficit. I find it rather difficult, with a corporation the size of the worker's compensation, to find you are in the position of deficit funding when you actually do not have enough assets to cover that loss. It had been suggested in the Wyatt report that the worker's compensation will eventually have to go to consolidated revenue to cover that loss.

Hon. Mr. Alexander: I do not know how you are going to approach this--

Mr. Haggerty: That is your problem, but I am suggesting to you that is the problem--

Hon. Mr. Alexander: My only problem is that I want to know whether I was supposed to answer the question.

Mr. Haggerty: You can answer when I get through with this and we will get on to it. I think you are going to have to come up with some numbers unless you have something current there, as my colleague has said.

Hon. Mr. Alexander: We will be able to give you whatever you desire.

Mr. Chairman: Obviously, the critics are going to raise a series of questions in their response. I would rather deal with them in a reply after both critics are finished.

Mr. Haggerty: I bring this to your attention. When I sense the difficulties the Worker's Compensation Board now finds itself in, the financial strait it finds itself in, I think the person who really suffers is the injured worker. I have seen, over the years, that we just give him a little bit, piecemeal. We have talked about the \$500 million sitting there now that could be used for the cost-of-living bonus to the injured workers. It is a waiting game for those persons who are injured. No wonder they are frustrated and perhaps it even leads to attempts at suicide.

Mr. Lupusella: Michael Starr was responsible for that.

Mr. Chairman: That is fine. I appreciate your raising these points, but if you complete your statement and questions, and then from the New Democratic Party, then Mr. Alexander and his group will get--

Mr. Haggerty: That is just a question I have just thrown there. I am leading off here at present for the Liberal Party and I want to bring forward our concerns here.

Mr. Chairman: It is just that I do not think we should get into a debate on each question right now--or a long discussion. I would rather hear all of your concerns, if it is all right with the committee, and then we will hear from the NDP and then Mr. Alexander and his group can respond.

Mr. McKessock: Mr. Chairman, just on your point, I think we should have a response from each critic after they finish before it gets cold. I do not like to move to another one before we hear the response.

Mr. Chairman: I am sorry. It is all right with me. We will do it that way then.

Interjection.

Mr. Chairman: I think Mr. Haggerty should make all his points first.

Mr. Haggerty: That is one of the major concerns I find there. I suggest that when you are dealing with injured workers and hear their complaints--and I have heard a number throughout the Niagara Peninsula--we have met with them in the area--all member of the Ontario Legislature have--and this is one of the concerns we find. The delay in payment, the frustrations they have to go through in the appeals system. They can have some of the best medical evidence provided for them, based upon their current injury, based upon their degree of disability, and the difficulties and the hassles they are getting from the board, I could go on to perhaps support what I am saying here.

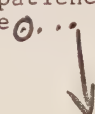
I have a letter here from a well-known law firm in Welland, Ontario. The name is Forestell, and I am sure that a number of my colleagues on the other side know that name very well. It is directed to the chairman of the board, Mr. Alexander. The claim number is C10718074, C12594276 and C12685034. In a number of claims I have reviewed, I find the number game is coming into the picture now. You can have a recurrence of the injury while the person is back employed. A new claim is established and you have to appeal. That is an area you have to appeal on and you have to appeal on another one. There is just no end.

I will go back to the letter. It says:

11:20 a.m.

"I am writing to you concerning the above captioned file, but I have quite frankly completely lost patience with the Worker's Compensation Board over this file."

R-1120-1 follows



(Mr. Haggerty)

and then you go back to appeal on another one. There is just no end.

~~I will go back to the letter. It says:~~

"I am writing to you concerning the above-captioned file because I have, quite frankly, completely lost patience with the Worker's Compensation Board over this file. In December, 1981, a legal aid certificate was issued by the legal aid office in Welland to the injured worker as a result of a referral from the Law Society of Upper Canada.

"The injured worker was sent to see me at my office and I know at that time I was not doing any legal aid work. In view of the problems that the injured worker had outlined to me, and that this doctor Mr. Morgan had set forth, I undertook to take this matter on and arranged for the legal aid to handle it.

"I first started correspondence with the board with a letter dated February 11, 1982, which was replied to by a Mrs. A. Bahi, claims adjudicator, under date March 2, some 21 days later. Subsequently the board started writing directly to my client, bypassing the writer, and again I wrote to the board on November 24, 1982. It took from November 24 to January 25, 1983 to receive a reply to that letter.

"Then there followed numerous pieces of correspondence between the board and the claimant and various other people. In the meantime, in 1983 the claimant suffered another injury at his place of employment and again there was various correspondence back and forth and you will recall that I wrote to you, Mr. Alexander, on November 1, 1983 concerning this file.

"You very promptly replied to me on November ??1 advising me that when you had an opportunity of looking into the matters, you would write to me again. On November 8, 1983, I received a letter from the appeals service concerning these claims advising that action was being taken and I would be notified in the near future.

"You subsequently wrote me back on November 9, 1983 with a very full explanation for which I thank you. Mrs. Bahi continued to write letters directly to the client rather than to me although she did have the courtesy to send me copies.

"The correspondence continued throughout 1984. Finally, on February 27, 1984, I replied by a lengthy letter, a copy of which is enclosed, and filed notices of appeal which have been previously appealed, but in order to attempt to clarify the situation, I filed completely new notices, as indicated in the letter of February 27. My letter, enclosing the new notices of appeal, went out on February 28, 1984, and it was acknowledged by letter dated March 14 stating that action was being taken and I would be notified in the near future.

(Mr. Haggerty)

"Subsequently, by letter dated March 19, which had a notation of April 2, 1984, yet the letter was received by me on March 22, I was advised that 'therefore this is to advise that once all issues have been properly dealt with, you may then write to the office of the register of appeals and a hearing date will then be expedited.'

"Mr. Ray Haggerty, MPP for Erie riding, became involved in the spring of 1984, and as a result I was receiving no substantial information as to when an appeal could be heard, even though the appeals had been filed in February. Again, on March 28, I was advised that my communications had been received and I would be notified in the near future.

"Again, on April 25, 1984, M. G. Falco wrote to the claimant with a copy to me and again wrote to the register of appeals on April 30, 1984, and against response on May 4 advised action was being taken and I would be notified in the near future." That sounds like the fullness of time. How often I have heard that expression in the Legislature.

"As a result of the delays in the matter, the legal aid branch of the Law Society of Upper Canada indicated that they would cancel the claimant's legal aid certificate because nothing had been done and again, I was required to get the certificate reinstated. On September 20, I wrote to the board again requesting that a hearing date be set for the month of October. Subsequently, on September 25, I received a letter from Mr. K. McLean, claims adjudicator, advising that this matter would be referred to the field branch and will advise as soon as possible.

"This letter was received on September 28. Subsequently, on November 1, a letter dated October 26, I received a letter from E. Mroczek, appeals adjudicator, a copy of which is enclosed. This was responded on November 5, and this is the last written correspondence I have had from the board.

"During the week of December 15...

R-1130-1 follows



February 5, 1985

(Mr. Haggerty)

... appeals to the adjudicator, a copy of which is enclosed. This was responded to November 5 and this is the last written correspondence I have had from the board.

"During the week of December 15 I phoned the appeal section of the board asking for further information and was advised that he was busy and some girl in the office who did not identify herself, asked me for the claim number. I then proceeded to give her the claim number and advised her that I was calling to ascertain whether the appeal would be heard as the situation was a desperate one.

"This young lady promised to phone me back that afternoon and did not and has not to this date. Subsequently, January 11, 1985, I again placed a call to Workers' Compensation at approximately 2:15 and advised how upset I was about the entire situation. I was advised that he would get the files and call me within 10 minutes. At approximately 2:30 in the afternoon, Mrs. McKay phoned my secretary advising that the appeal could be heard on May 14, 1985 and not before. She instructed my secretary was to phone her back and I instructed my secretary not to call her back, that I would.

"At approximately 2:40 p.m. on January 11 I phoned Mr. ??Maroczek who was supposed to have phoned me back but did not and was advised that he was out of his office and then I asked for Mrs. McKay. Speaking to her she advised me that Mr. Maroczek would not be phoning me back and he had no authority to set the appeal date, that I could either take May 14 or leave it.

"To suggest that when an appeal has been pending for one year that the hearing date cannot be before May 14 in my opinion is a ridiculous and abusive process. I feel it is necessary to bring this to your attention. I would be pleased to hear from you. Yours very truly, Forrestal, ??, Paul Forrestal, Q.C."

That is an indication that really goes on about the board. That is just one that he is involved with. I am sure that other members, that injured workers' consultants here run into the same difficulties. It just seems there is delay after delay without any consideration for the injured worker. Many times he has lost his place of employment, sick benefits may run out at the industry and there is very little left for him to do but to go on welfare and in many cases many of them take that approach.

I know that there are area offices and one in St. Catharines and others, but the difficulties that some have in even going to that office to get answers is ridiculous to delay. I understand in your opening comments that you have worked out a new process to expedite matters in claims review and appeal systems, but it is not working. There is continued delay.

I think all members appreciate the service and assistance we get from the special consultant we have at the board, and we are fortunate to have that pipeline, but many people and unions are finding it difficult to proceed with the appeals and the delay.

(Mr. Haggerty)

I was also concerned about Bill 101 and the decision. I see nothing in the minister's report about the direction the board is going to take on the Duprés commission report, particularly the one related to asbestos. I find that is a difficult area that has been through the mill on a number of occasions. It has been debated in the Legislature for years. It has been debated in Bill 101 in the last amendment to the Workers' Compensation Act. We find that very little action has taken place. We still rely upon the advice given by the board's chest respiratory specialist, Dr. Stewart. In decisions he has given in passing information on, they are totally ignoring that prereport.

I was interested that one of the recommendations was that the benefit of doubt should be given to the injured worker regardless of what years of exposure would be there. I think the words they used were that the benefit of the doubt should be given without question asked. As long as it has been indicated that the person has worked around the environment of asbestos in industries and in the paint manufacturing business, that there be no questions asked.

11:30 a.m.

I find that the board ~~had not~~

1130-1 follows

(Mr. Haggerty)

...that the person had worked in an environment with asbestos in industries and perhaps in paint manufacturing business, there would be no questions asked.

I find the board is not really taking a good close look at the recommendations of that Duprés report. If I have to go back to a letter from Dr. Stewart and the advice he has given to the appeals in that area, he has as much as said, "Lay it aside. We are not concerned about the recommendations in the report."

I would like to direct a question to the chairman of the board: Just what is the position of the Workers' Compensation Board regarding the Duprés report? Are you going to accept those recommendations or are they going to be held in limbo and we will have a number of injured workers waiting for a final decision of the board to accept that indepth study sponsored or funded by the Ministry of Labour?

Hon. Mr. Alexander: Do you want the answer now?

Mr. Haggerty: You can give it to me now.

Hon. Mr. Alexander: With respect to the Duprés report, I think we are all concerned with what the report said, but I think we should also point out publicly that the report indicated that the board has done a pretty good job with what it had regarding a very difficult and complex situation. That is something that has to be said.

The report itself has been under active consideration by both the Ministry of Labour, responsible for occupational health and safety and, of course, the board was involved with claimants with an industrial disease applying for benefits.

What you have to say is that Bill 101 does direct its attention to industrial disease. As a matter of fact one of the important initiatives taken by Bill 101 is the setting up of an industrial disease standards panel, which I think will occur about July 1. That has long been looked at and is now going to come to fruition July 1.

Many of these questions that you have brought to our attention, and I do not take them lightly, will be directed to that standard. We have done the best we could with respect to what we had in attempting to rationalize, if you will, an approach to the recognition of industrial disease. The Dupres report says that and I want it said again.

Having said that, we needed help and the help will come through the industrial disease standards panel to which many of these problems with respect to industrial disease will be directed so that we can have the benefit of their expertise in terms of criteria and guidelines in the future.

bm
(Hon. Mr. Alexander)

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I say with respect, we cannot say that Bill 101 did not address this issue. It did address the issue. You addressed the issue, sir, by saying, yes, we do need this body because, for some reason or other, we do not appreciate what the board had been doing. It is an in-house thing and I do not agree with that. We have looked at the medical expertise around the world, made comparisons and we were up to date as far as our abilities were concerned.

Having said that, the industrial disease standards panel, if that is the correct name, will be looking into the sort of things that you are talking about now, vis-a-vis the several unknown industrial diseases that perhaps have not even hit the ?? yet.

Mr. Haggerty: So that you can assure me something will be done in this area within the next 12 month period?

Hon. Mr. Alexander: Absolutely.


Mr. Haggerty: What about those things that have been pending for an appeal or a decision of the board now that the appeal system has denied it? I think in this one case, the person was involved in the industry for some 20 years and, according to Dr. Stewart, he said he has not been there a sufficient time, that he may have been 20 minutes or half an hour each day in a mixing tank.

Hon. Mr. Alexander: Sir, all I can say is, once we have the industrial disease standards panel in place, of course I have no responsibility in that regard. What we are trying to determine from that panel in due course is the standards and guidelines that will bring us up to date with respect to the whole question of industrial disease.

Once we find out what they are talking about, then it will be up to the board to say, "Where do we go from here with respect to future claims and/or past claims, but I do not think you would want me to say, "We are going to do this and we are going to do that," without me having the benefit of the expertise of the industrial disease panel.

Be assured that I take this as seriously as you do and I am pleased that you . . .

1135-1 follows



(Hon. Mr. Alexander)

~~we are going to do this, and we are going to do that, without me having the benefit of the expertise of the industrial disease panel. But be assured that I take this just as seriously as you do. I am pleased you brought your concerns to me in respect of this particular point. It is not going to be hung up as you say or hidden. The report will be acted upon one way or another and primarily by the industrial disease panel.~~

Once it is set up, if I am around, one of the first priorities in terms of this board, once the members thereof are appointed is to put several and various issues before them in order to see what we are doing in terms of adjudicating claims vis-à-vis industrial disease is up to date and acceptable.

Mr. Gillies: Further Ray to what the chairman has said. As you know it is the responsibility of the Minister of Labour to strike and come up with the composition of the industrial disease standards panel. I want to assure you that we are proceeding with that work and in the coming months, it will come to be. I want to further assure you that I will take some issue with your statement that the ministry or the board are unconcerned or are not going to be acting with respect to the report on asbestos.

You can well imagine one of our prime concerns and one of the immediate tasks that will await that industrial disease panel, will be the question of asbestos. I can give you every assurance that will be coming forward.

As to your point of existing or past claims, I think it would be premature for me to say how the board will react in terms of past claims as they are brought forward again before the industrial disease panel. However, I would not think it unreasonable that some past claims in light of new evidence may be reopened. That will remain to be seen.

Hon. Mr. Alexander: I would just say Mr. Chairman, in the event the criteria or guidelines change, it has always been the practice of the board to look back if you will in retrospect.

Mr. Haggerty: I am delighted to hear those comments because when you are talking about further instructions and directions in this particular area and further guidelines to be established, is it right for the board then to deny an appeal based on what the present board policy is? Perhaps they should have said they would wait to find out what the new panel is going to do and what new guidelines are coming in. I do not think the board should be making any decisions in this particular area.

Mr. Gillies: All I would say to that though Mr. Haggerty is you have voiced the concern and a fairly legitimate concern about the delay that some claimants are experiencing to appeals. I wonder if we would be doing them any great service by saying we will not be hearing their appeals on this particular issue until some work as yet not done by a panel as yet not struck or things in this report?

Hon. Mr. Alexander: I as chairman could not accept that. I think we have to keep moving ahead from day to day, from month to month, week to week, year to year. Guidelines change because the expertise is not coming more generally know with respect to approaches to issues that involve industrial disease or any other matter that the board has to contend with. So therefore to sit and then wait on something like this, we have guidelines. They may not be perfect, but I guess this is the question, they may not be as good as they could be, but in the meantime I think we have to try our best to adjudicate on the basis of what we have now.

You have the assurance and I have just indicated that. If the guidelines and the criteria are changed, I am advised by my colleagues that there will be a review of those cases in the past that perhaps were rejected because the guidelines were in existence at that particular time.

Mr. Lupusella: I would be interested to know who is going to start the action of the review. Is the claimant or the board?

Hon. Mr. Alexander: Which review are you talking about sir?

Mr. Lupusella: Of past claims which were rejected previously. Because of the change in guidelines eventually they have a right to review. But as you know to initiate an action in the appeal system the claimant has to approach the board. I think my friend would be interested to know whether or not instead of the claimant because he is not aware of the new guidelines, as to whether or not the board will initiate the action on behalf of the claimant.

11:40 a.m.

Hon. Mr. Alexander: Rather a good point. I will call on Mr. John McDonald now who has the expertise with respect to this. It is just the same as the beneficiary at any time is changed. How does the person know that the benefit structure has been increased. Now we are talking about change of guidelines or criteria. How does he know and what do we do in order to facilitate the whole new program as the case may be.

John McDonald is executive director of claims.
R-1140-1 follows



(Hon. Mr. Alexander),

--Now we are talking about change of guidelines, criteria. How does he know and what do we do in order to facilitate the old new program as the case may be.

John McDonald is the executive director of claims.

Mr. McDonald: In the past when guidelines have changed and there have been minimal changes in those guidelines, we have gone back ab initio and reviewed those cases. It is dealt with. I would see the same thing occurring.

Mr. Gillies: So the board would in fact contact the claimant if after the disease panel's work it becomes apparent some cases should be reviewed.

Mr. McDonald: I do not know if we would necessarily contact the claimant unless it was a positive decision. What you would be looking at is a review of the individual cases if it was necessary to gather further information you would do that. It could possibly involve contact with the claimant, but it would have to be dealt with on an individual basis.

Mr. Lupusella: What about the lost claims in which the claimant as my friend has stated lost a case as a result of the present guidelines. Are you going to reopen these claims in view of the new guidelines and advise the claimant to initiate some action?

Mr. McDonald: I believe I just said that Mr. Lupusella:

Mr. Gillies: That is what Mr. McDonald said Tony.

Mr. Lupusella: Why don't you make a distinction about lost cases and appending cases. As far as I am concerned, there is a difference. A lost case sometimes might go to the archives.

Mr. McDonald: A record is kept of the individual cases on industrial diseases Mr. Lupusella and I have indicated we would be prepared to review them. I do not know what else you want me to say.

Mr. Haggerty: I raise that point too because in the report it says "to determine eligibility for compensation." I refer to page 709. The recommendation would be 12(10) section 1229. "The Workmens Compensation Act should be amended so as to stipulate an irrebutable assumption in favour of the claimant." They are very specific in this particular area.

I suggest to you one of the comments in the memos where of Dr. Stewart--and I am just quoting from memory now--suggested that although he worked around 20 years in the environment of asbestos it was not sufficient time. There is only one stage in the whole process of the Minister of Labour staff in there checking the environmental issues at the plant. Once they monitored, they found the asbestos levels were higher than normal. That is once in the 20 year period. That represents a good track record for the Ministry of Labour.

Mr. Haggerty

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I suppose when we are talking about reducing the number of injured workers and the claims before the board, the ministry should be in monitoring these places more often, particularly when it relates to industrial disease.

We spent \$26 million to support the work of safety associations. If we took about \$13 million of that and went in and did a good hygienic program in industries that are known to be related to occupational diseases, we would probably be doing more good than anything here by just advertising on the radio. We have gone through that bit about the radio and the chap who had come down with asbestos poisoning and said if we only knew. We look at the ad on television with the person and sure it is frightening. But we only put the onus on the injured worker. I think that is a day of the past.

Hon. Mr. Alexander: Mr. Haggerty, I do not know whether you are a member of the committee and I knew there was something in the act that addressed your concerns and I think if you would look at page 30 of Bill 101 you will see your particular question has been looked at and answered. I would refer you to a section, particularly 9(a) of that section which reads: "If the worker either before the date of the disablement was employed in any process mentioned in the second column of schedule four." Now that is a new schedule. You only have one ??now.

Schedule four: "The disease contracted is the disease in the first column of the schedule set out opposite to this section of the process, the disease shall be conclusively deemed to have been due to the nature of the employment."

I think your concern has been addressed sir.

Mr. Haggerty: Where is schedule four? I do not see it in this.

Hon. Mr. Alexander: That will be a new schedule four.

Mr. Haggerty: What are we talking about? I raised that matter with the minister during the debate on Bill 101. I wanted to know what we were talking about in schedule four. What are we looking at?

Hon. Mr. Alexander: I will have Mr. Doug Cain who was involved.

Mr. Haggerty: Sounds like it was top secret.

Hon. Mr. Alexander: No, no. I do not know the answer and I am--

Mr. Haggerty: Just drawing it up now?

Mr. Gillies: No. I just said we are just drawing back and there is a great deal of data with regard to Bill 101. I want to make sure we give you an accurate answer.



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follows

Mr. Haggerty: Just drawing it up now?

Mr. Gillies: No. I did not say that. We are just drawing back and there was a great deal of data and there was a great deal of data with which we were dealing with regard to Bill 101, which I want to make sure that we give you. Just before Mr. Cain replies, I might say with respect to you--

Hon. Mr. Alexander: You have made me nervous and I need a pulse.

Mr. Gillies: There goes the atmosphere again.

Hon. Mr. Alexander: No, but I only have two pulses.

Mr. Haggerty: As long as we are going to compensated for it.

Mr. Gillies: I just want to again assure you, Mr. Haggerty, with respect to your comments about air monitoring in asbestos that the reason that Bill 101 included the introduction of the industrial disease standards panels and we are moving in this area, I will be very honest with you is because we want to do it better. We want to see all of the most up-to-date scientific acts available to protect the workers in our province from dangerous substances.

All I am saying is that I am not going to be an apologist for all the situations in the past, but I am going to say that asbestos that other substances that can be considered dangerous are going to be dealt with, as you can well imagine, in new ways following the introduction of Bill 101. We are not about maintaining the status quo in this regard, we are about doing it better.

Mr. Haggerty: It is important that schedule 4 should be out here now. We are well aware that the injured workers or the persons employed in the industry should be aware of the potential health hazards and I suppose with that schedule 4 we do not have to list the different categories in this particular--

Mr. Gillies: Ask Mr. Cain ??to enlighten us.

Mr. Cain: The committee when it was considering the new bill referred to the Dupré commission report. At that time recognizing that the commission suggested there should be in the Workers' Compensation Act certain diseases clearly stated, as you say, irrefutably factual that they come from that industry, the committee chose to put in subsection 9a. That schedule which will be called schedule 4 will contain that type of disability of disease.

I remember some committee members mentioning that perhaps an appropriate disease to include in that schedule, though it had not been decide, was perhaps mesothelioma but, in any event, it was chosen--

Mr. Haggerty: That is in schedule 3 now.

Mr. Cain: It was decided that perhaps that kind of disease could be included in schedule 4, but it was also decided that with this new industrial disease standards panel--and this will be part of their responsibility--it would really be most apt if this whole question was directed to them. The schedules for ??husbands provided for it, now the industrial disease standards panel can assist in that. Of course, the board will be involved as well, but certainly the standards panel will consider diseases that ought to be there.

Mr. Haggerty: Who will this panel consist of?

Mr. Gillies: I wonder if it might be valuable, Mr. Chairman, if we just review very quickly the criteria, the clauses in the act that lay out the responsibilities of the industrial disease standards panel. Its section in Bill 101, Mr. Haggerty, is section 86(p). I will not read it all, but very briefly.

"This section constitutes an industrial disease standards panel. The panel shall be composed of not more than nine members including persons representative of the public and the scientific community and technical and professional persons. The members of the panel shall be appointed by the Lieutenant Governor in Council. Remuneration, etc.


"The chairman of the panel, subject to such guidelines as may be established by the Management Board of Cabinet and the provisions of the Crown Employees Collective Bargaining Act may establish job classifications, personnel qualifications and so on for the officers and employees of the panel.

This is the key part. "Function: It shall be the function of the panel (a) to investigate possible industrial diseases; (b) to make findings as to whether a probable connection exists between a disease and an industrial process, trade or occupation in Ontario"--As I recall, we amended that to address some concerns of committee members--"(c) to create, develop and revise criteria for the evaluation of claims respecting industrial diseases; and (d) to advise on eligibility rules regarding compensation for claims respecting industrial diseases."

11:50 a.m.

It goes on and there is quite a bit there if you would like to see it. That is what we are about, a more broadly representative and expert panel to...

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(Mr. Gillies)

regarding compensation for claims respecting industrial diseases."

It goes on; there is quite a bit there if you would like to see it. That is what we are about, a more broadly representative and expert panel to delve into this whole area.

Mr. Haggerty: When can we expect some action on this? When is the panel going to be--

Hon. Mr. Alexander: As I understand it, the proclamation of Bill 101, particularly with respect to the new structuring, is supposed to be on July 1. I will not go any further. Maybe Mr. Gillies can add to that.

Mr. Gillies: You can well imagine we are not waiting for the proclamation date to lay the groundwork for this. I will consult with our ministry officials and get back to you on this.

Mr. Haggerty: We now have this panel established.

Mr. Gillies: We are working at it and I will undertake to report back to you on the progress being made in this area.

Hon. Mr. Alexander: I think John McDonald wants to speak.

Mr. McDonald: Mr. Haggerty, you suggested mesothelioma was currently in schedule 3. That is not correct.

Mr. Haggerty: I thought it was. Is chronic bronchitis?

Mr. McDonald: No, none of that.

Mr. Chairman: Mr. Haggerty, have you completed your statement? There are still some questions unanswered.

Mr. Haggerty: Our labour critic, Mr. Mancini, did talk about the matter of rehabilitation and the difficulties a number of injured workers are encountering in that area.

Without going into too much detail, because we will be visiting the rehabilitation centre, if we had time to spend on this area, I am sure there are many difficulties in rehabilitation out there in regard to people of ethnic background, particularly new immigrants coming into the province. A number of Italians and Portuguese run into difficulties. There is insufficient explanation of what has taken place in the process of rehabilitation and there are delays and misunderstandings. The end result is that people may be cut off workmen's compensation.

Mr. Haggerty
The board is going to have to take a look at this area of rehabilitation. I think we will see it more now than ever before when industries are cutting back on manpower. The very first on the hit list are persons who have a degree of disability or are on workmen's compensation. I can pinpoint one case of a person who was working at the John Deere farm implement industry in Welland and who lost part of his thumb. They dismissed him because they thought he could not do the job on the assembly line. He did pick up a light job that paid less money, but he was not aware of the section under the act. He was not advised that with a less well paid job there is a possibility of appealing and obtaining the lost wage income.

He was hired by on the assembly line of General Motors in St. Catharines with that disability through no effort of the rehabilitation people. He was lucky to pick up the job. This is what they are doing in some industries. That industry picked him up and hired him, which is a good thing, but he was dismissed from his previous employment because of the loss of his thumb.

In many cases now where they are cutting back and trying to increase productivity, a person who has an injury is one of the first ones to go. Inco is another company that always found light duty jobs, but they are not there any more. This business of the board saying, "There are job opportunities out there" is nonsense. They are not there any more with a depressed economy in which everybody is looking for a job. There is no place for that. One of the first things a number of employers ask, when there is a possibility of being hired in a new industry, is, "Have you a workmen's compensation injury?" In a number of cases that is held against them.

These are areas you are going to have to take a look at and come up with some other proposals. Perhaps the industries should be held more responsible for saying the jobs should be there. You cannot put them out in some other industry and say, "Yes, it is your responsibility now." Many would hire these persons but the minute they get the job and there is a new injury on an old claim, the assessment work goes up, which is why a lot of employers will not hire an injured worker. It is going to put their costs up.

There has to be another method of assessment so the new employee is not going to be charged because of that previous injury, as happens in some cases. I suggest that as an area of concern and I hope we can go into it in detail later on.

Hon. Mr. Alexander: We may as well address that point now, Mr. Chairman. Mr. Haggerty says some employers will not for some reason or other pursue their interview process. There is an adverse reaction to...

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(Hon. Mr. Alexander)

...the process. There is an adverse reaction to those who are on receipt of compensation. I think the act that has been passed by the wisdom of the committee does refer to that in terms of an amendment to the Ontario Human Rights Code. I do not know the Ontario Human Rights Code, nor how that states, but what it has included now is a reference to an injury or disability for which benefits were claimed and received under the Workers' Compensation Act. There is something in this particular act that refers to it.

Mr. Haggerty: That is like the Ombudsman too. You have two years on that process to get it finalized so you are going to send them to another government agency. It is just one big, vicious circle without resolving the problem. I think the board should be responsible.

Hon. Mr. Alexander: With all due respect, sir, I think you have pointed out a problem, and now you say there is going to be a runaround changing from agency to another. At the board we had no clout. I have often gone out to the employers of this province and indicated to them that there is a skilled bank out there with respect to disabled workers who have been rehabilitated from which there has not been sufficient withdrawals. All I can do is use moral suasion with respect to telling an industry that it should.

Now you have a segment within the Ontario Human Rights Commission which your committee felt was necessary, which I think is necessary, and which will now give someone some clout in the event they are ever met with such an allegation by an employer, or such a statement by an employer which is: "Oh, you are on compensation, I am not going to hire you." I am glad to see it is in there because some employers have that attitude with respect to injured workers, people of colour, visible minorities, women, and you can go on. So when you say it is a runaround, and I do not think you meant to say that, some of it is now covered. I know that is not the end of the world but at least it is a start.

Mr. Laughren: I think he meant to say it myself.

Mr. Haggerty: You want to believe I meant to say it. I am not backing down.

Hon. Mr. Alexander: Then if he said it I am just giving you a rebuttal. I know you want an answer, but I think from your opening remarks, I do not know when we are supposed to have an opportunity to reply to Mr. Haggerty's several questions with statements. Do we do that now?

Mr. Chairman: That was the intent. Mr. Gillies, did you have a question?

Mr. Gillies: Yes, just further to the last point, and as the Human Rights Commission is another agency reporting to our ministry, I do not think you are being entirely fair, Mr. Haggerty,

(Mr. Gillies)

when you suggest that this is not a considerable advancement for the injured workers in this province. There are certain grounds for complaints about discrimination under the Human Rights Code. With the provision we have included, the committee included for disability for workplace injury to be one of those grounds is, I think, quite a step forward. Injured workers will now have recourse to investigations by human rights officers, a very low-cost procedure for the injured worker, to proceed with a grievance as opposed to a possible recourse to their own type of legal action, which can be expensive, and not necessarily fruitful, without the basis in the Human Rights Code and the legislation.

I think it is a step forward. I think a lot of injured workers are going to benefit from that protection.

Mr. Haggerty: Hopefully they do but it will be time-consuming.

Mr. Chairman: Can Mr. Alexander respond. We will go until 12:30 and then break until two o'clock.

Hon. Mr. Alexander: I was a little concerned, Mr. Chairman, with respect to Mr. Haggerty's opening remarks, where I think he alluded to or indicated that the board is guilty of mismanagement. I do not know if you said that, sir. I will not ask you to think about what you said but I heard the word, "mismanagement" with respect to the unfunded liability. I sit here and adamantly say that is not a fact. I think if you were aware of the circumstances by which the unfunded liability has climbed you perhaps you would not have led off with a very damaging, and I think a very embarrassing statement. At no time has anybody, since I have been at the board, accused us of mismanagement.

Mr. Laughren: We do not expect you to confess to mismanagement. Gee whiz.

12 p.m.

Hon. Mr. Alexander: What the members of the committee and the audience should realize is what is the unfunded liability? What does it mean in a layman's terms? How did we get--

(Tape R-1200 follows)



Hon. Mr. Alexander: I think what the members of the committee and the audience should realize is what is the unfunded liability, what does it mean in layman's terms and how did we get into the unfunded liability. I must say that, in two or three instances, I can say is the fault of the committee--not the fault, it is as a result of actions taken collectively by members of Parliament in dealing with ad hoc inflation adjustments.

Another thing that has bothered us is the rate of persistency has gone up. These are things that are commonly known. Whether my friends on the left want to laugh or not, these are things that are known.

At this time I will have Mr. Gord Russell, who is the executive director of planning, talk about some of the problems and the issues involved with the unfunded liability to bring us all up to date. I hope that Mr. Haggerty will listen because he will be enlightened.

Mr. Lupusella: Because we are going to raise the issue of unfunded liability in our presentation, I think it is fair for the employees of the board to retain their comments on that subject until later on. We will have to raise the issues and the questions again and there have to be other answers. Can we keep this argument aside until--

Mr. Chairman: I think we agreed to respond to the two opposition critics. Perhaps you could listen and you may not have to raise the question again.

Mr. Laughren: On a point of privilege, Mr. Chairman, I think, in view of the remarks of the chairman of the compensation board, I would just like to come to the defence of the government members of the committee who have so dominated the committee because of their majority. If I could come to their defence, I do not like to see the chairman maligning the government members that way because they could have done something about the unfunded liability, in the opinion of the chairman. I think that is a bit unfair to the government members.

Mr. Chairman: I think, Mr. Laughren, he did go on to say--

Hon. Mr. Alexander: I said it was the House.

Mr. Chairman: You did say the committee, Mr. Alexander, and then you corrected yourself.

Hon. Mr. Alexander: I meant the House.

Mr. Laughren: That is dominated by government members too.

Mr. Chairman: Perhaps now we could rely on Mr. Russell--
Interjections.

Mr. Chairman: Order, please.

Mr. Reilly: Perhaps I could give some background to this before the question. This unfunded liability question has been raised before this committee as recently as last year. Because of the magnitude of the problem, it just cannot be resolved in a year or two; in fact, it is going to take quite a number of years to resolve it.

Looking back in history, to 1974 in fact, that is the year in which there was the catchup, the year of indexing old pensions, approximately 52 per cent. Since then, there have been virtually ad hoc amendments year by year to our benefit levels.

So far as the board is concerned, we can only fund for liability when it has actually been enacted. In earlier years the board did amortize benefit level changes over a five-year term, but that has not been possible in recent years.

In setting the assessment rate, we look at last year's performance on the balance sheet and then project the projections forward for the year to come.

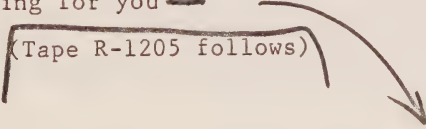
In the last few years, of course, we have been subject to restraint legislation and increases in the assessment rates have been limited to a maximum of 15 per cent. You can appreciate the board's only source of revenue is, of course, the employers of Ontario under schedule 1.

There was a comment about plant closures and so on. It is interesting to note from our statistics that the number of employers under schedule 1 has actually increased from about 160,000 to 168,000 at the end of 1984, which is rather pleasing.

Mr. McKessock: On that point, the number of workers has dropped though, is that true? Businesses have gone up but workers have gone down.

Mr. Reilly: I do not have that figure in front of me but we can find out something for you —

(Tape R-1205 follows)



Mr. McKessock: On that point, the ??work force has ~~dropped though, is that true, business has gone up, but the work force has dropped?~~

Mr. Reilly: I do not have that figure.

Mr. Cain: There is an increase in the work force. I do know from what date, but we used to talk in terms of 3.5 million workers in Ontario and now we are talking in excess of four million, so there has been an increase in the work force at least covered by the Workers' Compensation Board.

Mr. Haggerty: Are these part-time employees?

Mr. Cain: I am only giving you gross figures. I cannot explain how it has gone up or why. I am simply saying I remember being told that there was an increase in the work force.

Mr. Haggerty: What is the additional revenue then from the number of increased employees?

Mr. Reilly: Revenue has gone up from the 1983 report. It showed an assessment then of \$783.5 million. Gord, could you tell me the 1984 figure?

Mr. Russell: It is approximately \$980 million.

Mr. Reilly: Thank you. There has been a consultation with the superintendent of insurance on the board's funding approach, and it is agreed that it is going to take quite a number of years to address the unfunded liability in total, but we are addressing it, and as much as the economy will us we will increase the assessment rates, which is our only method of funding to address the unfunded liability.

Mr. Haggerty: What are the carrying charges on the unfunded liability? What are we paying in interest?

Mr. Reilly: The unfunded liability really is the actuary's projection of what the board needs to pay all injured workers in entirety forever. The unfunded liability is the difference between the assets we hold today and the actuary's projections of what we should have in the next 30 or 40 years, whatever it is.

Interjection.

Mr. Reilly: Yes. At the moment we have about \$2 billion in ??assets. That is our pension ??fund.

Mr. Lupusella: It will increase to \$5 million in the next five years. That is what I read somewhere.

Mr. Gillies: That was a projection unless steps were taken sensitively to reduce the unfunded liability by increased assessments and other steps. That was, as I recall, the worst case projection of where it might go.

Mr. Lupusella: If I am not mistaken in reading the 1983 annual report, there is somewhere a comment that in the next five years, when the full implementation of Bill 101 is made, the unfunded liability will rise to \$5 billion from \$2 billion.

Mr. Gillies: Keep in mind, Mr. Lupusella, this is the 1983 report.

Mr. Lupusella: ??Consider the 1984 plus five years' time and the new injuries involved, the new pensions, the new debts, and--

Mr. Gillies: The point I am trying to make, though, is that was said following the 1983 fiscal year. I think it is fair to say there were extensive discussions between the board and the ministry last year as to how to approach the unfunded liability.

Hon. Mr. Alexander: As well as the private sector.

Mr. Gillies: And with the private sector, and you may rest assured that we are moving towards a very careful reduction. I do not think we will be seeing a \$5-billion unfunded liability.

Mr. Haggerty: ??in the unfunded liability, but what is it going to cost the employees in assessments? How much of an increase will we be looking at?

Mr. Gillies: As the chairman has said, there is no question that assessments will rise. I think the private sector is aware of that and is ready for it.

Hon. Mr. Alexander: I cannot give you the forecast right now--perhaps one of my colleagues can--but I think what we must appreciate is the fact that when we started to look for more money in order to address the unfunded liability, given the fact that we brought about full disclosure in the 1983 book, you would not have known that it could reach the \$4-billion mark if we had not put it--you may have known, but we thought it was only appropriate to put it in there.

What has happened with respect to subsequent--

Mr. Haggerty: I thought we got that information from the Wyatt report on--

Hon. Mr. Alexander: It was in the 1983 book.

Mr. Haggerty: Yes, it is in there now.

Hon. Mr. Alexander: Yes, but that was a couple of years ago.

12:10 p.m.

In any event, what has happened really is that we have had to sit with industry, the Ministry of Labour and others, in order to devise a payment schedule that took into consideration economic realities. Right now, I think the rate is struck at an average of some 15 per cent...

1210 follows

son
(Hon. Mr. Alexander)

R-1210-1

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February 5, 1985

...schedule that took into consideration economic realities. Now, the rate has struck at an average of 15 per cent. Until such time as we have a meaningful rate structure, the 15 per cent we are talking about that is going into effect for 1985 is just allowing us to stand still. Therefore, the ongoing discussions that are required and necessary to set up a game plan which will allow the board, notwithstanding economic difficulties, to--

Mr. Haggerty: We might change in that game plan--that does not sound--

Hon. Mr. Alexander: Process.

Mr. Haggerty: All right. Process. That is better than "game plan."

Hon. Mr. Alexander: It will allow us to have a process which will have consideration for the economic realities of the private sector and the responsibilities of the board.

Mr. Russell can give you further information about what we are doing in this regard. It is not a very easy subject, and it is one that, as you know--when we talk about the unfunded liability, we are talking about the assets we have, if, in the event everything that was owing to pensioners, etc. on down the line became due today. We do not have that money. But realizing that that has to be considered, we are moving in a direction, hopefully, to reduce the unfunded liability, particularly in the way Mr. Russell will talk about.

Mr. Haggerty: We will see what Mr. Russell has to say.

Mr. Russell: The actuary, in setting his rates, is taking into consideration the unfunded liability. He is also taking into consideration the act as it stands when he is setting the rates which is at the current maximum benefit level.

In past years we have based it on the current levels, and after the rates have been set, the levels have been increased. This results in our having benefits being paid out at a higher level than we have been assessing the employers. At this time, we are, as Mr. Alexander is saying, attempting to recover that unfunded liability. It will be done over a period of time so as not to cause economic hardship to the employers of Ontario.

Mr. Haggerty: Is the Canada pension plan of some benefit to those injured workers--will that be of some benefit in reducing the unfunded liability? The revenue from that included in the workers' compensation--what advantage is that to the board?

Mr. Russell: We will not be receiving money from the Canada pension plan.

Mr. Haggerty: No, but the injured worker would in a roundabout way. He would be picking up a portion of that--

Interjection.

Mr. Haggerty: Yes, there is about \$300 that one can add on to the worker's assessment, at 15 or 20 per cent or whatever it would be. If he is considered totally disabled, he will be getting that. If you piggyback on the Canada pension plan. You are not really picking up the full cost, are you? So there should be some benefit to workers' compensation.

Mr. Russell: As Canada pension relates to Bill 101, I cannot answer that.

Mr. Haggerty: You cannot? Your actuary has not figured that out--what the benefits will be to the board to piggyback on the Canada pension plan?

Interjection: It is a good question.

Hon. Mr. Alexander: Mr. Chairman, we are getting involved--I say it with a great deal of respect--with the role of the actuary of the board, Mr. John Neal. Because of Mr. Haggerty's question, if he does not mind my making a suggestion, we would be prepared to have Mr. John Neal, the board actuary, come before the committee--

Mr. Laughren: Right on. He is one of our favourite witnesses.

Hon. Mr. Alexander: I am glad to hear that. Then your questions can be answered in detail with respect to how we are approaching the unfunded liability and the implications and complications of it. Would that be a proper approach at this time? Not that Mr. Russell cannot continue, but I think it would be advisable to have Mr. Neal here.

Mr. Chairman: ?? to have Mr. Neal come in.


Mr. Laughren: Can I second that.

Mr. Chairman: We will reserve at least one question for you, Mr. Laughren.

Mr. Laughren: I do not want to spend all my time on rehabilitation.

Mr. Gillies: I have one final thought. I am glad the actuary will be coming forward to talk about the details of the unfunded liability. Philosophically, we should keep in mind that the unfunded liability is nothing--

(R1215 follows)



(Mr. Gillies: Just one final thought, and I am glad that the actuary will be coming forth to talk about the details of the unfunded liability. I think, philosophically, we should keep in mind that the unfunded liability is nothing more or less than a projected deficit. It is what is seen as a shortfall in dollars to be spent as opposed to dollars already spent. As Mr. Haggerty knows as well as I, there are only two ways to get rid of a deficit. You either increase your revenues or reduce expenditures.

The question is, how do we do that sensitively so that it (a) does not adversely affect the position of the clients, the injured workers and, (b) how do we do it that it does not unduly adversely affect the position of the people paying into it. That is why the formula, game plan, or whatever you want to call it, has to be worked out very sensitively so that we are not going with a blunt axe, as it were, at the businesses that are footing the bill, and at the same time, that we are not going to affect the level of service we want and that we believe we have enhanced for our injured workers through Bill 101.

It is going to take time. You cannot cut that kind of gross expenditure overnight.

Mr. Lupusella: I think that I ?? to intervene on that.

Mr. Chairman: I have Mr. MacQuarrie's name down first.

Mr. Laughren: The committee has to make up for its mistakes of the past.

Mr. Lupusella: I have to reply to the deputy assistant.

Mr. Chairman: You will. Mr. MacQuarrie, and then you, Mr. Lupusella.

Mr. MacQuarrie: When we are talking about the unfunded liability which seems to be the difference between revenue in any given year and expenses, and in so far as that unfunded liability is to be picked up, in part, by employers, employees, I just wonder whether certain of the expense items are properly chargeable against or go into making up the unfunded portions of the ??act, whether occupational health and safety should properly be chargeable against the overall operations of the Worker's Compensation Board, or whether it should be a ministry expense. This sort of thing raises some questions in my mind.

Hon. Mr. Alexander: --is somewhere else at this time. I think you started to say whether occupational health and safety is to be properly charged to the board. I would say that the board is not directly involved with occupational health and safety. That is under the Ministry of Labour, but we do have, by way of the act, the right to recognize safety associations who deal in education. This is, I think, the extent that the board is involved. By funding that, this year it is something like \$31 million, to some nine safety associations, who spread the gospel, if you will--

Mr. MacQuarrie: I realize that. I realize that it is certainly an overall benefit for the community. It is just a question, in my mind, of whether there is not an element of distortion in the gloom picture that is being painted on some of the liabilities.

Mr. Chairman: I think Mr. Russell has an answer for us.

Mr. Russell: If you are referring to the line on the financial statements, occupational health and safety, we are required, under the Occupational Health and Safety Act of 1978, to contribute toward the cost of occupational health and safety program as run by the Ministry of Labour.

Hon. Mr. Alexander: That is an answer. I did not hear the question.

Mr. MacQuarrie: Twenty-six million bucks on accident prevention and that sort of thing, is that part of the--

Mr. Russell: No, under the act itself, it started off as \$4 million in 1978 when the act was passed, and by law, the ministry can increase it by 10 per cent each year.

Hon. Mr. Alexander: It is up to about \$5 million plus now, is it not? I am not too sure.

Mr. MacQuarrie: I just wondered whether--

Mr. Russell: That is why it is there.

Hon. Mr. Alexander: Five are going directly towards occupational health and safety and the other 28 or 30, as the case may be, goes to the safety education associations.

Mr. MacQuarrie: I was sort of looking at income from various sources, and ?? primarily in terms of benefits to injured workers and then I saw this whole list of other expenditures and wondered whether the whole thing was not getting a little bit distorted.

12:20 p.m.

Mr. Lupusella: If I may go back to what the minister's deputy assistant stated before about the unfunded liability, you just said that the unfunded liability is a projected deficit for the future. Are you telling us that because of that there is no reason to be concerned or this is the main reason why the board and the Minister of Labour is not...

R-1220-1 follows



Mr. Lupusella: Thank you, Mr. Chairman. If I may go back to what the minister's deputy assistant has stated before about the unfunded liability, you just said that the unfunded liability is a projected deficit for the future. Are you telling us that because of that there is no reason to be concerned, this is the main reason why the board and the Minister of Labour (Mr. Ramsay) is not tackling the issue of unfunded liability, or the unfunded liability is used by actuaries and the board as a scapegoat not to increase benefits to injured workers?

In previous hearings of this committee on reviewing Bill 101, the reason why the Minister of Labour rejected the ??full index of Bill 101 was because of the unfunded liability. The board and the industries could not afford the cost. This was the main line used by the Minister of Labour.

Are you using the unfunded liability because some day the Workers' Compensation Board will go out of business and it has to liquidate all the assets and pensions? Are you afraid that the Tories might lose power? Why are you using the unfunded liability? --the whim of the government and the board.

Mr. Gillies: Mr. Lupusella, I believe in all the years that we have sat on committees together I think it is the first time I can say that what I have said is close to the opposite of what you suggested I said.

Mr. Lupusella: You said it.

Mr. Gillies: The reason I pointed out that the unfunded liability is a projected shortfall is that, in effect, while it is not dollar spent yet, we have to keep in mind that it is a commitment not unlike a deficit.

I then went on to say that then the question is how do we approach that projected deficit with, I believe, a great deal of sensitivity to the very points you just raised that: (a) we do want to see the position and the benefits of our injured workers affected adversely and (b) we do not want to see the pay-in from the employers having to be increased drastically in one lump, which could affect many businesses just coming out of the recession. That is what Hon. Mr. Alexander referred to as a gain plan, a scheme or whatever you may call it.

A process is being worked out in consultation with the employers, the board and the ministry which will see and guarantee the future financial integrity of the board with a sensitivity to all of those things you said. I in no way wanted to indicate that we are using the unfunded liability as a scapegoat because it is a real number and it is a very real problem that has to be addressed.

Hon. Mr. Alexander: Process.

Mr. Gillies: Process.

Mr. Lupusella: I am sorry. Considering that you deny my statement and my allegation, can you give me a justification of

the government and the board, when the unfunded liability came to light, which is going back to 1974? In 1975 the member for York Mills (Miss Stephenson) the former Minister of Labour was using the principle that the unfunded liability was supposed to be started ?? before any increase would take injured workers' benefits.

Can you tell me why since 1975 up to 1985 no formula, no mechanism or no process was discovered to tackle the issue of unfunded liability? Still you are saying the line that the unfunded liability is a threat for employers and for injured workers, which means that the government policies could not afford future increases because of this unfunded liability.


We are searching for an answer for the last 10 years without any process, any result or any formula. Are you kidding the injured workers or are you kidding the employers?

The latest increase, with the greatest respect, to tackle the issue of the so-called "unfunded liability" was the 12 per cent increase in the assessment for employers across Ontario which took place just recently in 1984-1985. It appears that you are using the unfunded liability along with the board as a scapegoat to penalize injured workers.

Mr. Gillies: I would deny very briefly that we are using it as a scapegoat. I would say again, as you have yourself pointed out, Mr. Lupusella, there will be increases in the assessment rate. This has been done in consultation with the employers, the ministry and the board because all three of those parties recognize the problem, which I believe you recognize that if we want to continue to pay out for the benefit of our injured workers then the financial integrity of the board has to remain in tact.

It is a real problem and I would...

R-1225-1 follows.



(Mr. Gillies)

~~...parties recognize the problem, which I believe you recognize, that if we want to continue to pay out for the benefit of our injured workers then the financial integrity of the board has to remain intact.~~

So it is a real problem. I would ask you, I am not trying to be provocative, that if you go back to 1974-75 when the problem was first highlighted, have we been reticent in bringing forward regular benefit increases for the injured workers to this Legislature? I would suggest to you that my minister has stood in the House on many occasions--

Mr. Laughren: And in caucus.

Mr. Gillies: --since he took office to introduce increased benefits for the workers of this province.

Mr. Lupusella: Because he could not stand it, that is why.

Mr. Gillies: We have done so unstintingly with regard to the financial integrity of the board, but with an overriding regard for the wellbeing of the injured workers of this province.

Mr. Lupusella: This is very questionable.

Hon. Mr. Alexander: I might still say that limiting the needs or detailed answers we are going to have Mr. John Neal here this afternoon. You will have an opportunity then to further elaborate on this very interesting issue.

Mr. Lupusella: You have to come through with it. Mr. Chairman, with the greatest of respect, I do not think you are the cause of the problem. You inherited the problem and you are causing the problem now since you have been appointed.

Hon. Mr. Alexander: With the greatest of respect? I do not know what that means, "with the greatest of respect."

Mr. Lupusella: You inherited the problem from the Hon. Michael Starr. The problem is going into a lengthy discussion but you are sensitive to what the parliamentary assistant stated a few minutes ago. You are sensitive to the industry, sensitive to the problems affecting injured workers, but we are still not faced with your conclusion on how to deal with the situation. Okay, the expert might appear before us. He is welcome to give his comments.

Mr. Chairman: Mr. Neal is going to appear here to answer questions and explain the unfunded liabilities, not to get into a debate on whether or not the process by the politicians has been corrected.

Mr. Lupusella: I am not justifying the process, I think the people over there are trying to justify a process which was not

(Mr. Lupusella)

solved in 10 years time. Are you blaming me for raising the issue?

Hon. Mr. Alexander: Sir, if I may just say this again, I have indicated that we will have Mr. John Neal here this afternoon and we can pursue that. You seem to have a depth of knowledge about this serious subject. I think we should hear from the experts.

Mr. Chairman: The question can be asked of Mr. Neal. I am sure we will have an answer.

Mr. Gillies: A sensitive answer.

Mr. Chairman: A sensitive answer. We only have a couple of minutes, Mr. Alexander. Is there anything else that you can respond to, or is this a good time to break?

Hon. Mr. Alexander: I think it is a good time to break, sir.

Mr. Chairman: Okay. Thanks very much. We will be back to two o'clock, please.

12:27 p.m.

The committee recessed at 12:27 p.m.





STANDING COMMITTEE ON RESOURCES DEVELOPMENT
ANNUAL REPORT, WORKERS' COMPENSATION BOARD, 1983
TUESDAY, FEBRUARY 5, 1985
Afternoon sitting
Draft transcript

STANDING COMMITTEE ON RESOURCES DEVELOPMENT

CHAIRMAN: Barlow, W. W. (Cambridge PC)
VICE-CHAIRMAN: Villeneuve, N. (Stormont, Dundas and Glengarry PC)
Havrot, E. M. (Timiskaming PC)
Lane, J. G. (Algoma-Manitoulin PC)
Laughren, F. (Nickel Belt NDP)
Lupusella, A. (Dovercourt NDP)
McKessock, R. (Grey L)
McNeil, R. K. (Elgin PC)
Reed, J. A. (Halton-Burlington L)
Riddell, J. K. (Huron-Middlesex L)
Watson, A. N. (Chatham-Kent PC)
Yakabuski, P. J. (Renfrew South PC)

Substitutions:

Gordon, J. K. (Sudbury PC) for Mr. Villeneuve
Haggerty, R. (Erie L) for Mr. Reed
MacQuarrie, R. W. (Carleton East PC) for Mr. McNeil
McCaffrey, R. B. (Armourdale PC) for Mr. Havrot
McLean, A. K. (Simcoe East PC) for Mr. Watson

Also taking part:

Gillies, P. A., Parliamentary Assistant to the Minister of
Labour (Brantford PC)
Mancini, R. (Essex South L)

Clerk: Arnott, D.

From the Workers' Compensation Board:

Alexander, Hon. L. M., Chairman
Cain, D., Associate Secretary
Darnbrough, A. J., Executive Director, Vocational Rehabilitation
Division
McDonald, J. F., Executive Director, Claims Services Division
Neal, J., Board Actuary
Reilly, R. D., Assistant General Manager, Executive Division
Russell, G., Executive Director, Financial Services Division

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON RESOURCES DEVELOPMENT

Tuesday, February 5, 1985

The committee resumed at 2:10 p.m. in committee room 1.

ANNUAL REPORT, WORKERS' COMPENSATION BOARD, 1983
(continued)

Mr. Chairman: We should proceed with our afternoon session. I think before proceeding we might discuss, because of a suggestion made this morning, that we do visit the Downsview hospital. It has been suggested by the chairman that perhaps next Tuesday might be a good deal when medical people are available. It is entirely up to the committee. Would Tuesday be an appropriate day if you decide you would like to go out there?

Mr. Lupusella: What about Friday? Is there any problem with this coming Friday?

Mr. Chairman: The only problem is, we are not planning on sitting on Friday. We sit Tuesday, Wednesday and Thursday.

Mr. McKessock: It will be the first sitting next week.

Mr. Chairman: On Tuesday, yes, a week today.

Hon. Mr. Alexander: Downsview Rehabilitation Centre.

Mr. Laughren: We will be going to Downsview in the morning and then hear the brief in the afternoon?

Hon. Mr. Alexander: To answer the first question, not necessarily. We will go to Downsview in the morning and whatever the committee decides for the afternoon will be strictly up to them.

Mr. Chairman: Would it be appropriate to go there in the morning and come back in the afternoon to discuss our findings in the morning?

Hon. Mr. Alexander: I think we all take notice of that.

Mr. Chairman: We will leave from here. The problem we had is there is no money in our budget for travelling all the way to Downsview. The ministry has graciously offered to pick up the tab for a van to take us out to Downsview.

Mr. Laughren: In times of restraint, that is something.

Mr. Gillies: No interior door handles.

Hon. Mr. Alexander: I assume Mr. Chairman, if the committee meets at 10 o'clock could we say you will be there at 10? All right I will alert and I think Dr. Mitchell is here in any event.

Mr. Chairman: Is 9:30 a.m. Tuesday at the front door of the Legislature okay?

Hon. Mr. Alexander: Board personnel will be out there to welcome you.

Mr. Chairman: Okay. The plans will be that we meet at the front door of the Legislature at 9:30 next Tuesday on February 12.

Hon. Mr. Alexander: Another point Mr. Chairman. You can recall that before we left there was some concern about answers to unfunded liability at this time. ~~I have asked~~

R-1415-1 follows



(Mr. Chairman)

February 12.

Hon. Mr. Alexander: Another point, if you recall, before we left there was some concern about answers to one point of liability at this time and, at your request, I have asked Mr. John Neal to join the table; he is the board's actuary. As well, we have Mr. Tom Warrington who is at the table now, who is the vice-chairman of appeals, who will be able to get involved with the areas and issues that are involved in appeals and adjudicators and/or appeal board as the case may be. Mr. Neil is now here, Mr. Lupusella, if you had--

Mr. Lupusella: I think the gentleman here is not new to the members of this committee. We had an opportunity to review the issue of unfunded liability when this committee was encountered with the vision and content of Bill 101 and the relevant white paper and the Weiler report and so on.

Even though we got some answers that the unfunded liability had something to do with the forecast of the economy and employment and so on, I do not think that I was quite pleased to draw and concur with the conclusion or conclusions and explanations given by the actuaries employed by the board.

Again, I would like to reiterate the same principle about the unfunded liability because I think that this committee and the members of this committee raise this issue all over again. As far as I recall, 1974 or 1975 was the time when the issue really came to light.

Just to refresh your memory, I would like to remind you that even the former Minister of Labour, Bette Stephenson, in 1975 appointed the Wyatt commission to study the unfunded liability and the detrimental effects which eventually the unfunded liability would give to the future operation of the board.

Since then, in 1975 when the first amendments were enacted into the legislation, the delay coming from the Ministry of Labour was always justified in light of the conclusions of the unfunded liability made by this specific company and find out alternatives as to whether or not the system can afford to pay the increases which the government was engaging itself to introduce before the Legislature.

Since then, 10 years almost have elapsed and the unfunded liability is really a threat. I was horrified to learn, as a result of my own research even though I am not an expert in that field, that when the full implementation of Bill 101 will take place, considering the new accidents and the number of new accidents and the benefits which are going to be paid under the issue of supplement pension when a job is not available and so on, I think that, at the present time, we are faced with \$2 billion in unfunded liability at the present time, in 1984, and for the next five years I guess that this unfunded liability will rise to \$5 billion. It is my own estimate and I am going back to this issue.

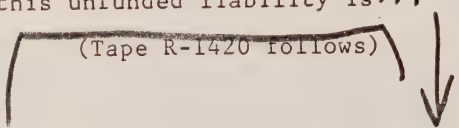
(Mr. Lupusella)

So the board is using the unfunded liability, if I listen to statements made by the minister's deputy assistant, the unfunded liability is used, in hypothetical terms, about a future deficit which might take place if all the pensions and all the balance and all the interest which the board is going to pay out to injured workers in the ?? administration will exist in case this pay-out process will take place.

2:20 p.m.

In theory, this unfunded liability is...

(Tape R-1420 follows)



(Mr. Lupusella)

~~...are going to pay out to injured workers and running the~~
~~administration will exist in case this pay-out process will take~~
~~place in theory this unfunded liability is based on the forecast~~
that in the future the government cannot meet certain legislative
goals because the unfunded liability will rise.

We have heard this story for 10 years. I think that when you appeared before the committee we made our point about the assessment given to employers in previous years, which were quite generous. They were extremely low, and even though the unfunded liability issue was present in front of the government's eyes, and in front of board officials, it appears that to date, a decade later, the issue of unfunded liability is used to get more money from the employers in order for the board to meet its obligations in the future. It is used to buy the government, and the board, that when we deal with legislative increases we have to be very careful because the system cannot afford the cost. You do not have any disagreements about this kind of statement which members of this committee, and the Minister of Labour (Mr. Ramsay), has been using on the floor of the Legislature.

I was wondering why, after the chairman of the Workers' Compensation Board made the statement that the board and the government are extremely concerned about the issue, and they are trying to study new devices and new processes, if I can use the same terminology, that a decade later we were unable to find a solution to the problem.

Of course, it is nice to be critical about a system. So while the best way is to increase the assessment of the employers in order that the board may meet its obligation about goals, or the government which might implement certain legislative increases where injured workers will get the benefit, the employers across Ontario cannot afford the cost of the assessment based on poor economic conditions and do not want to create chaos in the industry.

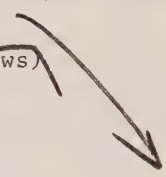
On the other hand, the issue of unfunded liability is informing injured workers that they cannot get the benefits to which they are entitled, or certain legislative changes because the system cannot afford the cost. I am wondering if we are playing politics to get money from employers about the threat of unfunded liability which, as the parliamentary assistant stated, is in some way hypothetical because it is based on future projections of the board to meet obligations.

I would like to reiterate my position on how to resolve the issue of the unfunded liability. The best investment is to reduce the accident rates affecting workers across Ontario. Employers' pockets will not be hurt. Human beings will not be hurt because they are not faced with serious injuries. I think that even though the number of injured workers declined a little bit from 1980 to 1984, talking about 345 or 50,000 workers across the province, it is a number which scares me.

(Mr. Lupusella)

I would like to know, unless you are going to repeat yourself in relation to statements which you made before this committee, if this is a phony issue about the unfunded liability? Is it true that the government is using this issue to get what money they want from the employers, and to keep under control the injured workers and not improve the benefits which injured workers are entitled to? Are you really talking about reshaping a new model of workers?--

(Tape R-1425 follows)



~~--and to keep under control injured workers and not to improve the benefits which injured workers are entitled if we are really talking about reshaping a new model of workers' compensation board in Ontario.~~

Hon. Mr. Alexander: Mr. Chairman, before Mr. Neal answers several questions that were raised, I think one thing should be cleared and I guess you are getting into the political process if I might say that, but it has not escaped me sir that since I have been here in June 1, 1980, that the unfunded liability has not prevented the government from moving with respect to raising the ceiling for benefits and as well has moved consistently with respect ad hoc inflation adjustments.

Sir with all respect when you say that the board, and I cannot speak for all politicians, but when you say the board has not addressed this particular problem, I respectfully submit that the problem which you have referred to has been addressed. The unfunded liability has not prevented the government--and excuse me Mr. Gillies, I should not be involved with the government--but I just wanted to register something sir that with all due respect you conveniently forget. I know that was not done deliberately, it is just you had forgotten there had been adjustments made with respect to the ceiling and with respect to ad hoc inflation adjustments within the economic climate. I do not think we can just throw that out the window sir.

Within the economic climate a position was put with respect to inflation adjustments and as well the raise in the ceiling. I do not think that should be forgotten. Your premise has continually been with all due respect, that because of the unfunded liability nobody registered any sensitivity to the injured worker. I just thought I would clear that up.

Mr. Lupusella: Mr. Chairman, again with all due respect, you registered your point of views. I think I was trying to balance the issue within the proper perspective so at least the gentleman in front of us will have an opportunity to expand and to give us the best information. Unless this type of information will be different from what I heard, I welcome his contribution.

On the other hand, I would like to register with you and the members of this committee, that I did not state that the unfunded liability prevented the government from increasing the level of benefits for injured workers. What I have said and what I meant to say is that the overall improvement in the operation of the board and the certain type of benefits which the government recognizes as important to be implemented, because the government cannot ignore certain benefits which must be brought to injured workers have been denied because the board cannot as a result of the unfunded liability cannot meet its future obligations because of that particular issue.

Just to be specific. For example in Bill 101 that was enacted by this Legislature, we were able to move certain amendments. They show sir, the government recognized the importance that there is a need to move. Because of that threat of

(Mr. Lupusella)

unfunded liability and the detrimental effects which injured workers might have, they cannot move at this point in time.

I make a particular reference for example about the old injuries which are not covered under Bill 101. The old surviving spouses for example of 10, 15 or 20 years ago are not covered by Bill 101 because the system cannot afford the cost.

I mean if you phase my criticism within such perspective, then I did not mean that the government have deemed to move to increase the five per cent pensions also. I did not say that. I think we were clear based on the friendship which we have with Doug that he was reporting on a better basis what was going on about here. At least you are aware about the issues which we were debating in the Legislature.


Hon. Mr. Alexander: Perhaps sir then I misunderstood and if I did then I am sorry, but I thought that what I said should be put on the record. In any event, I think it helps the whole global--

Mr. Lupusella: I took it for granted that you knew what I was talking about because Doug was informing you on a daily basis.

2:30 p.m.

Mr. Gillies: On a quasi point of privilege. I do not want to get into a protracted back and forth here Mr. Lupusella, but one thing you did say in the course of your question was to indicate that I said this morning--

R-1430-1 follows



Mr. Gillies: On a quasi point of privilege, and I do not want to get into a protracted back and forth with you, Mr. Lupusella, but one thing you did say in the course of your question was to indicate that I said this morning that the unfunded liability was an hypothetical problem and I would take issue with you in that I think I said the unfunded liability, while it was a shortfall of dollars yet to be spent as opposed to a shortfall of dollars already spent, is a very real problem and that we recognize it as a real problem that has to be handled sensitively. I am sure that is what you meant to say.

Mr. Lupusella: In a decade, I have not seen any solution to this problem, but let us hear what the experts have to say.

Mr. Chairman: Mr. Neal, could you respond to Mr. Lupusella's questioning--statement?

Mr. Lupusella: Preamble.

Mr. Chairman: Preamble. You had a question in there too in your preamble.

Mr. Lupusella: Preambling questions.

Mr. Neal: To clarify, I will formulate a question and then answer it because at this point I am not quite sure exactly what I am supposed to be answering, but I will make an attempt.

I think perhaps the first question is: Is the unfunded liability a real issue?

I believe the unfunded liability is a real issue, that the future payments to injured workers are real, that there is no question that the government intends to meet its obligations there and therefore it is a real issue; no question about it.

The second question, I think, is perhaps: Why should the board be funded? Why should it have this money? Why not make the payments from future generations of employers' gross incomes?

The concept in workers' compensation has always been to attempt to fund the system by each generation of employers that causes the injuries to the workers in the first place. That is why the system charges different assessment rates to different industries. We have assessment rates climbing to almost 30 per cent of payroll in some industries and down at about three per cent of payroll in other industries.

I have always understood that one of the prime reasons for that is that it motivates employers to prevent injuries. If all employers were paying a three or four per cent payroll tax, the concentration on accident prevention and rehabilitation of injured workers would not be property motivation so targeting costs, it is my understanding, achieves the very things you are looking for, of less injuries in the first place and more proactive rehabilitation of the worker. Therefore, the unfunded is relevant because we are passing on costs from one generation of employers to another.

Conversely, because employers must pay into the system, the problem is not as serious as it would be in a private sector plant because there is not a question of bankruptcy and there will be future employers in this province who will be able to meet those obligations. It is not black and white, it is not as simple an issue as a private pension plan or the Canada pension plan which is not funded at all, workers' compensation sits between the two and the magnitude of the unfunded liability should be managed and should be retained at as low a level as possible without unduly impinging upon future generations of employers. That sort of terminology is right within the act.

For me, I have answered the basic thrust of your questions, perhaps you would like to supplement them?

Mr. Lupusella: Again, I think you gave this type of explanations in the past. My colleague the member for Nickel Belt (Mr. Laughren) does not have so much trust in actuaries. I am sure that you hold that in the past, I am still having my doubts.

The supplementary question which I would like to pose before you is the following. The very huge--because it is a huge unfunded liability when you are talking about \$2 billion it is \$2 billion, you are not talking with millions any more--has been the result of financial mismanagement of the board and who should be blamed for that?

Mr. Neal: I do not accept your statement that there has been financial mismanagement. There has been in-depth disclosure of the decisions that we have been making on an annual basis. We felt for many years...

R-1435-1 follows.



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(Mr. Neal)

.. There has been in-depth disclosure of the decisions that we have been making on an annual basis. We felt for many years that it would be premature of the Workers' Compensation Board to anticipate this organization's decisions. For the board to have prefunded future ad hoc inflation-type amendments would, in our opinion at that time, have been to have prejudged the parliamentary process.

Mr. Laughren: What has changed?

Mr. Neal: What has changed is documents such as the standing committee on resources development, December 1983, where all three parties endorsed a concept of inflation proofing existing beneficiaries, the statements--

Mr. Laughren: That is not part of the legislation.

Mr. Neal: The statements become clearer, and the long-term intent becomes clearer. We felt that the time had arrived to consider phasing in an allowance for future ad hoc inflation-type amendments. That thought process was shared with our external actuaries, it was shared with actuaries who were retained by the Ministry of Labour, it was shared by the Superintendent of Insurance of Ontario, and collectively it was agreed that it would be appropriate to phase in a process of increasing the board's liabilities, increasing assessment rates to anticipate the possibility of the continuation of this policy and the present method would allow us to fully anticipate them if the current practice of ad hoc amendments continues for another five or six years. We have fully disclosed what we have been doing all along.

Mr. Haggerty: Was your cost-of-living formula in the past based upon the years that everybody was going after more and more, higher wages and that? Was your cost-of-living formula workable for the employees of the Workers' Compensation Board? Were there any built-in factors in that, say annual increase above ??normal wage increase that there was a cost-of-living formula for the employees of the Workers' Compensation Board?

Mr. Neal: ??Within their liabilities, no.

Mr. Haggerty: No, but has there ever been a policy such as what happened with the employees of the provincial government, that they had a cost-of-living formula? Would that practice follow for Workers' Compensation Board employees, too? Somebody is shaking his head, no.

Mr. Neal: I am not really the expert on that one. I certainly know that a lot of people on various wages have lost a lot of purchasing power in the last few years.

Mr. Haggerty: I think everybody has.

Mr. Neal: But I think that answers your question to some extent. There could not be a policy to preserve the purchasing power if it has not happened. Injured workers have had larger increases than the bulk of the staff have had. As an example--you are way out of my area.

Mr. Lupusella: If I may continue with the issue, you have been denying my statement that the board mismanaged the whole process of funding and that is why we are faced with the unfunded liability, and one of the reasons you denied my statement is that you made full disclosure of what the board is doing, and under the statutes of Ontario, the board is accountable to politicians and to the government and committees of the Legislature. There was an obligation from the board to show accountability of their operation on a yearly basis, so it is not something new that came from the goodwill of the corporate board or top officials of the board. It was a request, and it is a request, which is made by statutes implemented in Ontario, and that is why you gave this full disclosure to the public and to the government.

The issue is that there is a difference between the mismanagement of the funds as a result of a wrong decision-making process taken at the board's level, which does not have anything to do with the full disclosure you were mentioning earlier.


Mr. Neal: I was not discussing full disclosure, sir. I was discussing full consultation with the parties involved--

Mr. Lupusella: Which parties, the employers?

2:40 p.m.

Mr. Neal: --before final decisions were made.

1440 follows



~~(Mr. Lupusella)~~

~~... nothing to do with the full disclosure which you mentioned earlier.~~

~~Mr. Neal: I was not discussing full disclosure, sir. I was discussing full consultation with the parties involved.~~

~~Mr. Lupusella: Which parties, the employers?~~

Mr. Neal: Before final decisions were made. Primarily with employers on the basis that they are the ones who are paying the bills. Anyone who wants to talk about the board's finances from an actuarial perspective had always had a very open door with me.

Mr. Lupusella: Yes. We do not deny that. In fact we got explanations before this committee about funded liability and how the system should be funded to meet the future needs of injured workers in the province. You gave us your side of the story.

I go back to what we have been saying in the past, that the free rides and the lower assessment rates given to injured workers in the past are part of the problems because of the forecast made by officials of the board in relation to economic trends, which eventually did not take off in the past.

You made certain provisions that the economy would get better and the spending manpower of the money coming out from the board's funds got out of proportion, and that is why you are faced with these problems as well.

Mr. Neal: Are ou aware of any economist who was forecasting the 1981-83 recession in 1979, because I am not?

Mr. Lupusella: I think that the board had a better perspective than economies about the trend of the economy on the private sector. You are dealing with injuries and you know the payout payments which are taking place on a yearly basis. You are printing an annual report and you know what is going on on the market of injured workers on a yearly basis. You know the numbers, you know the number of claims, you know the amount of pensions given to injured workers and so on.

You are faced with the clear-cut, statistical data which will give you the amunition to be extremely accurate. But economies in the private sector to make provisions about the economy, and how the economy will work in four or five years time, based on the past performance, I do not think you can use the same analytic analysis used by other economies from your own perspective. I think that it is a completely different ball game. You know how much money you spend on a yearly basis on behalf of injured workers.

You know how much money you are paying out in relation to pensions and supplements and so on, you know the revenues and you know your investments. It is a clear-cut game and you can easily

(Mr. Lupusella)

draw conclusions about the assessment which employers are supposed to pay into the board's funds on a yearly basis, and I would not accept the theory that you have to make economic forecasts for three or four years time.

Mr. Neal: Are you suggesting that you do not believe that the benefits that we have been paying out in the last two or three years and the rapid increase in the numbers is due to the 1981-83 recession?

Mr. Lupusella: No, absolutely not.

Mr. Neal: What explanation would you give me?

Mr. Lupusella: I can give you an explanation. If you are dealing with the issue of opening new claims, you are faced with clear-cut injuries, which has nothing to do with poor economic conditions across Ontario. What you are talking about is supplement pensions and based on the performance of economic conditions across the province, that is where you can make mistakes on the forecast.

You do not have to go far away to make provisions for four or five years' time because your assessment should be on a yearly basis.

Mr. Neal: No. With respect, my assessments are not on a yearly basis. My assessments are set to cover the future payments required on this year's injuries. I have to forecast more than 30 years into the future just for awards on 1984 claims, for example, let alone the pension payments that will flow for up to 70 or 80 years after 1984. So with the greatest respect, the level of the economy . . .

1445-1 follows



(Mr. Neal)

...let alone the pension payments that will flow for up to 70 or 80 years after 1984.

So with the greatest of respect, the level of the economy has a major impact. You have already reminded us that claim volumes reduced in 1982, and reduced again in 1983. On a simplistic viewpoint you would expect that benefit payments would therefore have reduced in 1982 and 1983 because the claim volumes had reduced. In fact, the very reverse occurred because injured workers needed to stay on benefit longer because they were unable to work, and because there simply was no work available.

Mr. Lupusella: That is just one section of the act. I am talking about opening new claims in which the decision-making process coming from the board is to pay out weekly benefits based on the nature and gravity of disability. There is nothing else. It should not have nothing to do with the job market.

You are trying to divert my argument. You are trying to mix injured workers that have reached a level of disability based on their disability and, therefore, subsection 43(5) comes into effect where the injured worker has to go out and look for a job. That is where your economic spectrum will be in place to analyse the economic conditions of the day. I already told you about new claims that have nothing to do with the job market.

Mr. Neal: With the deepest respect, I do not believe where compensation is a simplistic issue of suggestion.

Mr. Lupusella: I am not an expert as I stated. You are claiming to be the expert. I am trying to give you an argument and looking for answers, but I am not getting the answers.

Mr. Neal: I am doing my best. Far more than 70 cents in every dollar paid out in a year is paid out on accidents that occurred prior to the year that we discussed.

The type of statement that I am making to you is the type of statement that I make to employers. You can well imagine that employers are not too enthusiastic about a system that pays injured workers more money during economic hardship than during economic good times. Many employers consider that the Workers' Compensation should not be doing that. But the system does that. The legislation that you have jointly put together is supposed to do that, and it does it. Clause 41(1)(b), a section which has perhaps slipped your memory, is a major indicator to adjudicators of what should occur.

Mr. Lupusella: I am not aware of that section.

Mr. Neal: We believe that the surge in benefit payments paid to injured workers, and it is a large surge if you look at the annual reports, is a result of the recession. For you to accuse us of mismanagement you have to accuse us of one of two

(Mr. Neal)

things. Either we should have forecasted the 1981-83 recession back in 1979, which is why I made the statement to you which was: "Do you know of any economist who was forecasting that recession back then?" I certainly do not. Or you can accuse us that we should have prefunded future ad hoc inflation-type amendments back in 1978 when the Wyatt Co. report that you referred to clearly stated that that should not occur, that benefits should not be inflation-proof for workers who were not receiving any wage loss because they were back at their original employment. That Wyatt report clearly stated that.

I believe the then Minister of Labour, when she enacted the 1978 amendment, suggested that the '78 amendment was a measure to solve the obvious human need problem at that time, and that further study would be done. I think you will recall those events occurred:

Mr. Lupusella: Yes, I do.

2:50 p.m.

Mr. Neal: So the question is, when was it appropriate for the board to start recognizing the ad hoc amendment process? Obviously, that is a judgement call. It is easy to throw shots with 20-20 hindsight. I feel very comfortable with the decisions the board made when it made them. With 20-20 hindsight, obviously, we would have liked to have done certain things differently. But anybody can play that--

(Tape R-1450 follows)



(Mr. Neal)

I feel very comfortable with the decisions the board made when they made them. With 20-20 hindsight, obviously there are certain things we would like to have done differently, but anybody can play that game.

Mr. Lupusella: I am not playing games, I am just trying to place into perspective the needs of injured workers across Ontario with the principle of unfunded liability and what the system can afford or cannot afford. Maybe you are seeing the system as an actuary and an actuary alone and the misery of injured workers with their injuries is not part of your concern.

Mr. Neal: No, I--

Mr. Lupusella: For some reasons, because that is part of your skill and trade and nothing else.

Hon. Mr. Alexander: I do not know whether I found what you said questionable or--

Mr. Lupusella: No, it is not questionable. What I stated is that he views the system of Workers' Compensation Board with an actuary's mind, to give us statistics and study the economic performance of the board. I do not think that--

Mr. Gillies: Are you suggesting that an actuary or an account is incapable of feeling anything for the people with whom he is dealing? That is an appalling thing to say.

Mr. Lupusella: Come on, let me finish my statement.

Mr. Gillies: Are you suggesting he has no interest in the Workers' Compensation Board other than a ledger book? You do not know this gentleman, you know nothing about him and I think that is an appalling thing to say.

Mr. Lupusella: It is part of his trade, it is related to numbers and nothing else.

Mr. Gillies: Is part of his trade to be insensitive, is that what you are saying?

Mr. Lupusella: You are a politician, you cannot expect that you are going to draw a design for a building because you say, "I am sorry, it is not part of my trade." This is the same thing.

Mr. Gillies: I think you owe this gentleman an apology.

Mr. Lupusella: I have nothing for which I should apologize. If you are a politician and your trade is not to be an architect, nobody can pretend from you to go and draw or make a design of a building. It is as simple as that and I have nothing to apologize for.

Hon. Mr. Alexander: I take issue with what you said with respect to the insensitivity that--

Mr. Lupusella: No, no, this has nothing to do with insensitivity.

Hon. Mr. Alexander: You have implied that the actuary is insensitive to the needs of the injured workers and I just want you to know, front and centre, that I reject that totally.

Mr. Lupusella: There is nothing to reject because such premise does not exist in my own mind.

Mr. Laughren: I can understand why you are making those remarks up at the front, too; I can understand that very well.

Mr. Chairman: I want to be clear in my own mind that there was no intention that you were shutting out--

Mr. Lupusella: It was imagination, I was just trying to--

Mr. Chairman: --insensitive towards the injured worker--

Mr. Lupusella: I am not playing politics.

Mr. Chairman: His job, of course, is to deal with numbers but, at the same time, I think we all recognize that he certainly is sensitive to the injured worker.

Mr. Lupusella: That is his mandate.

Mr. Chairman: Okay, just so that--

Mr. Laughren: --unfunded liability, is that his concern, or is it to get the injured worker back to work?

Mr. Chairman: I accept your answer, Mr. Lupusella.

Mr. Lupusella: As chairman, I think you are--

Mr. Chairman: It was your intention to--

Mr. Lupusella: --my purpose.

Mr. Chairman: No, I realize what your intention was.

Hon. Mr. Alexander: We are here to be open and frank and any time I see that somebody is trying to let one of my colleagues hang out to dry with information that is not quite above board, then I am going to step in regardless of the consequences.

Mr. Lupusella: You do not have to take any defence about your employees because the statement that I made was not--

Hon. Mr. Alexander: But that is my way.

Mr. Lupusella: A clear-cut indication that the--

Hon. Mr. Alexander: He is not insensitive.

Mr. Lupusella: --job specification of his trade is to deal with numbers, period.

Hon. Mr. Alexander: Within the confines and the objectives and the needs and the mandate of the act.

Interjection.

Mr. Chairman: Order, please. I think I understand now what Mr. Lupusella has said and I think he certainly did not intend to--

Hon. Mr. Alexander: He should apologize to me.


Mr. Chairman: I understand what he was saying. I think we have it clarified now. He did not intend to suggest that at all.

Mr. Haggerty: I thought I started off with the questioning on this and the gentleman is here to respond to some of my questions.

Mr. Chairman: Obviously he will respond to all of our questions while he is here. I recognized Mr. Lupusella first.

Mr. Haggerty: Is Mr. Lupusella going to lead off with his opening statement or not?

(Tape R-1455 follows)



Mr. Chairman: I recognize Mr. Lupusella first.

Mr. Haggerty: I was just wondering, is he going to lead off in his opening statement.

Mr. Chairman: No, no. I am not letting you hear an opening statement because we haven't got all the answers to Mr. Henderson questions. We have Mr. Neal here today to answer all questions with regard to this one particular item and that is unfunded liability.

Mr. Laughren: You should have allowed the two opposition critics to do their lead offs.

Mr. Lupusella: I made my proposal which was rejected.

Mr. Chairman: I was asked whether we could have Mr. Neal in this afternoon. I thought I had concurrence of the committee to have him answer questions on unfunded liability.

Mr. Lupusella: Okay. Talking about unfunded liability and estimates made by the board in the field of mortgages, it is my understanding that in 1983 the investment of the board in mortgages was in the range of half a billion dollars. Am I correct? More or less. A \$157 million?

Hon. Mr. Alexander: Mr. Chairman, I think Mr. Reilly has answers to that specific question at this time regarding.

Mr. Reilly: The mortgage investment in 1983 was \$408 million.

Mr. Lupusella: I was very close.

Hon. Mr. Alexander: I am starting to laugh and I do not want to laugh because this is a very serious matter.

Mr. Lupusella: On the mortgage issue. I do not know where the decision comes from to invest the money. Mortgages were good to invest money in 1980, 1981 and 1982 when there was a rise in interest rates which were giving 18 and 19 per cent. But now you are faced with a decline. Would you please tell us what the board is doing in relation to the mortgages investments. Is the board going out from such investments? Can you come out with the new plans of the board? Did it in fact make a decision to leave that field because it is not profitable any more? What are you doing on that? When are the mortgages going to be due?

Hon. Mr. Alexander: Mr. Chairman, perhaps we could have Mr. Reilly address this question in terms of our investment of mortgages, how we operate in terms of investments.

Mr. Reilly: Dealing with the mortgages and the mortgage portfolio of 1983. As I mentioned we have had \$408 million. The return on our mortgage portfolio for that year was 11.85 per cent. We have \$393 million in the mortgage portfolio at the present time and the return for 1984 was 11.88 per cent. So the return has not

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(Mr. Reilly)

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declined to this date.

Mr. Lupusella: Because they are not mature yet.

Mr. Reilly: They usually run for a five-year term.

Mr. Lupusella: When is the starting date?

Mr. Reilly: Each year a number expire and then we renew them or put them into long-term binds or whatever is the most profitable depending on what our advisors give the tenants, suggest to us.

Mr. Haggerty: May I ask a supplementary here. You are dealing with mortgages now. Do you carry the mortgage yourself or you lend them out to lending companies that makes two or three per cent out of the houses for it?

Mr. Reilly: We carry the mortgages.

Mr. Haggerty: What particular profit are we talking about here?

Mr. Reilly: All industrial properties, primarily Ontario, but also in British Columbia and Alberta, other provinces as well, but primarily industrial properties.

Mr. Haggerty: Why would you go to BC and Alberta?

Mr. Reilly: We go where we get the best deal. All our mortgages are guaranteed by Central Mortgage and Housing Corp.

Mr. Haggerty: In other words you are not going to lose anything on it then.

Mr. Reilly: Pardon?

Mr. Haggerty: There has to be a cost factor involved in that. Am I not correct on that? They do not do this for nothing do they?

Mr. Reilly: We pay them nothing, absolutely nothing.

Mr. Lupusella: Are you planning to stay in this type of business now that you are becoming competitive with rates given by banks and private financial institutions or are you going to carry on with this task?

Mr. Reilly: Depending on the advise of our investment advisors, we at the moment certainly do plan to continue with a mix of our portfolio. We have \$1 billion, \$100 million in long-term binds. We have \$400 million in mortgages.

Mr. Lupusella: You are talking about mortgages.

3:00 p.m.

Mr. Reilly: Yes. We have--

R-1500-F follows

1500 follows

(Mr. Reilly)

to continue and mixed with our portfolio, we have \$1,100,000,000 in long-term bonds; we have \$400 million in mortgages.

Mr. Lupusella: You are talking about mortgages.

Mr. Reilly: Yes. We have \$400 million in mortgages and \$200 million in short-term securities. Of the three securities, the mortgages are given as the best return, at this time, and have.

Mr. Lupusella: For the moment. But again, going back to forecast, who makes the forecast about mortgages? Your department?

Mr. Reilly: Going back to 1975, our return in mortgages was higher every year than long-term bonds. It was not higher for a couple of years in short-term securities because short-term rates were extremely high during 1979, 1980 and 1981. Mortgages are a better investment as far as the term than long-term bonds.

Mr. Lupusella: So actually, there is no change of policy that eventually you might decide to get out of that field based on the decline of interest rates in Canada. You are going to stay in in spite of what is happening at the present time, or future forecast coming from economies, the actuaries, or you-name-it; you are going to stay in that field.

Mr. Reilly: No. We did not say that.

Hon. Mr. Alexander: I do not think that is what he said.

Mr. Lupusella: I am trying to get an answer.

Hon. Mr. Alexander: Well, I said with the investment portfolio we are given guidance in that regard by outside consultants, so it is not something that the board does in a unilateral way with respect to investment, whether it is long-term or short-term bonds, equity, and-or mortgages. We get the advice from the outside and if they say, "The market is this way and this way, you should increase short-term, you should reduce the short-terms, increase long-term, or you should get out of mortgages," we, upon receiving that advice, will guide our actions accordingly. So, it is not done in a unilateral way, whereby we are not concerned about receiving a proper return on the money. We have outside help. I guess that is the short answer.

Mr. Lupusella: I understand that and I appreciate your explanation, but what I am trying to get at is the mortgages are for a period of five years, and eventually some of the mortgages will expire in 1986, 1987 and 1988. At that time, the interest rates paid on that investment will be in the range of eight per cent, for example. What are you planning to do?

Mr. Reilly: If, at that time, the long-term bond rate is greater, then certainly we would go to long-term bonds. If the mortgage rate is higher, we stay with mortgages. We have to use a little judgement as far as getting the best return on the money is concerned. Naturally, we get the best rate.

Mr. Lupusella: It is a judgement. The unfunded liability was based also on judgement, with the greatest of respect. Then in four or five years' time, we are faced with a crisis even in the return of the board's investment, and then we are going to cry out for economic conditions, or there was no provision that interest rates would fall to eight per cent because there was no preplanning at all. That is what I am trying to get at.

Mr. Reilly: There has been no suggestion of any emergency or any problem as far as return investment portfolio is concerned.

Mr. Lupusella: I do not have any other questions, Mr. Chairman.

Mr. Neal: Part of the process of computing the unfunded liability is to forecast future investment income, because although we say we have a liability of \$4 billion, that is actually the present value of something in the order of \$8-\$10 billion of actual benefit payments to injured workers. It is simply a present value to give you a capital sum which, together with future investment income, will be enough to satisfy those \$8-\$12 billion--I forget offhand exactly what the cash flow model shows.

Actuaries, traditionally, are a little cautious about future investment income, because a lot of our future investment income will flow not from existing securities, but from reinvested securities, such as the mortgages which are concerning you. The actuarial model needs to forecast those reinvestment rates; and that is built in when we start to allow for future ad hoc amendments in the future. Then actually what we need to forecast is not what the actual interest rate will be, not what the actual inflation rate will be, but what the difference between increases in workers' benefits will be and investment income. When in the two-page article in the annual report, where we talked about a net interest rate of two per cent, that is the difference between what you can earn on your money--

R-1505 follows

~~... the increase in workers' benefits will be an investment. When
in the two-page article in the annual report where we talked about
a net interest rate of two per cent, that is the difference
between what you can earn on your money, and inflation weighted
over a long period.~~

Basically, if mortgage rates are only eight per cent in two or three years' time--and I am sure a lot of us around this room hope you are correct--inflation will be lower, the need to increase worker's benefits with regard to preserving purchasing power will be lower and the whole thing comes round. We in the board will probably be better off if mortgage rates are as low as you are forecasting because inflation will be lower and there will be smaller increases need to workers' benefits to preserve purchasing power. In actual fact, that would be a favourable rather than an adverse contingency for us. Do not expect us to come crying to you in three or four years' time because our investment income is not high enough; we will be smiling.

Mr. Lupusella: I do not have the same mind as yours. I would tackle the problem differently to reduce the unfunded liability, by reducing the number of accidents. Prevention should be the main target, which will not ??sew the employers' pockets and will ??sew injured workers with their injuries.

Mr. Neal: I do not have any problem with what you are saying.

Mr. Lupusella: The other approach which I would use is the assessment on the employers because they were unable to meet such goal on reducing the number of accidents. You have to ??sew their pockets, which means that they have to pay more money on their assessment. It is as simple as that.

I make a forecast, and you can easily say that the economic trend plays an important role in the whole operation of the board. I concur with you to a certain extent, but I had to stop you after you made the particular comment about this issue.

Mr. Neal: One thing that has concerned me for some time is the suggestion that the employers have had an easy ride. Let me, for instance, share with you that in 1975 the average cost per worker in this province was \$138 per person year. In 1984, it has risen to \$390, that is \$138 to \$390.

Mr. Laughren: Of course, you are not being selective in your choice and use of figures, are you?

Mr. Neal: Pardon me?

Mr. Laughren: You would not be selective in your use of figures, would you?

Mr. Neal: Would you like me to give you \$60 in 1970 and \$390 in 1984 or a 545 per cent increase in per worker cost?

Mr. Laughren: Yes. Could I tell you what I would like you to use.

Mr. Neal: Would you like me to use 1978 and 1979?

Mr. Laughren: You are still being selective. I have seen the chart of the assessment starting back in the early 1970s going through to right now and I saw years when benefits were going up and assessment going down. I do not know of anybody else's cost of living that was going down in years when employers' assessments were going down. That is why I am not happy.

Mr. Lupusella: The inflation was going up at the time when the assessments were reduced. I am going to get into his figures later on.

Mr. Neal: You have been comparing assessment rates which are a percentage of payroll. When inflation is going up, if the percentage of payroll stays constant, then the cost is going up by the same rate as inflation.

Do not confuse an assessment rate expressed as \$2 per \$100 of payroll and it stays the same when inflation is going up that it is saying the employers are not being charged with inflation because they are. Those premium rates are expressed as a percentage of payroll.

Mr. Chairman: Mr. Laughren, was that your question?

Mr. Laughren: No.

Mr. McKessock: You mentioned, I think earlier, the difference of percentages of assessment. They range from what?

Mr. Neal: About 0.3 per cent of payroll up to close to 30 per cent of payroll, accountants versus some of the mining industries when you bring silicosis bringing in rate in addition to that traumatic accident.

Mr. McKessock: I must not be getting this right. You are not saying the employer pays 30 per cent of his payroll as an assessment--as a premium?

3:10 p.m.

Mr. Neal: Yes. There are some jurisdictions in the United States where the premium rate is in excess of 100 per cent of payroll.

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Mr. Neal: Yes. There are some jurisdictions in the United States where the premium rate is in excess of 100 per cent of payroll, just to put the figure in context.

Mr. Laughren: What did I tell you, Bob?

Mr. McKessock: Let us say the payroll is \$300 a week, that is \$15,000 a year, in that 30 per cent assessment how much would he be assessed for that employee.

Mr. Neal: He would be assessed 30 per cent of \$15,000, which is \$4,500.

Mr. McKessock: That is the premium. Then you mentioned something about 100 per cent.

Mr. Neal: In the US, in certain industries, in certain jurisdictions, and I forget which one it is, but it is always ??trotted out.

Mr. McKessock: Where they would be paying \$15,000--

Mr. Neal: Where they would be paying \$15,000.

Mr. McKessock: ??full premium to wages. That business would be hardly worth running, would it?

Mr. Neal: They are very specialized.

Interjection: Wage loss, that is what it is.

Mr. McKessock: Employee loss, too.

Mr. Laughren: I am always intrigued when people trot out the assessment rates. I had a meeting with Falconbridge officials here in the last month or so. I do not want to misquote them, and I should have brought the figures down, but I think their compensation costs per year are in the neighbourhood of \$10,000 per employee. Does that sound reasonable?

Mr. Neal: Try \$1,600.

Mr. Laughren: I am sorry, \$1,000 an employee.

Mr. Neal: It is \$1,600 is our guess for 1984.

Mr. Laughren: But you are not talking about a specific company now.

Mr. Neal: It is \$1,637.60 if you want it specifically.

Mr. Laughren: That is for that company or that industry?

Mr. Neal: I am sorry, I am reading you a percentage. The cost per worker in the nickel mining rate group for 1984 is estimated to be \$2,217.

Mr. Laughren: I know it is not company-specific, at least I do not think it is.

Mr. Neal: There is only Falconbridge and Inco in the rate group basically in the nickel mining industry. Who else is there?

Mr. Laughren: Right. Anyway, we are talking over \$2,000 per employee for compensation costs.

I think the chairman and others understand why we are concerned about the unfunded liability, because we have seen in the last couple of years the employers lobby, not to mention the employers' counsel, and they are concerned about increasing benefits in view of the size of the unfunded liability. The link is there, and that is what makes us angry at the way the board allowed the unfunded liability to sneak up and mug them, which is what we are led to believe when we talk to Mr. Neal and to the chairman of the Workers' Compensation board, either that or blame the committee, as the chairman did earlier this morning, or the Legislature, for the problem.

Interjection.

Mr. Neal: I am sorry that--

Mr. Laughren: I am not asking you to--

Mr. Chairman: ??did apologize for that. We all accepted his apology.

Mr. Laughren: I do not want the chairman to be provocative.

Hon. Mr. Alexander: I am trying my best not to be.

Mr. Laughren: The fact is, even though you do not seem to want to admit it, that the board allowed the unfunded liability to get to a level where it is a very major concern. Nobody else did it. Nobody else laid the assessment rates on you, and that was then. You can say that the Legislature laid on the increase in benefits, that is true, but we did not lay on the assessment rates. That was laid on by the board, and if I had been running the board--believe it or not, I am a very fiscally conservative person--I would have run my affairs in such a way as to make sure that did not happen. I really believe that most people would, and most workers would run their affairs in such a way, too, in a very fiscally conservative way. That is why we are unhappy with the way this thing has happened.

I do not remember when the board saw the red flag called "unfunded liability" and became very concerned about it. I do remember my colleague the member for Bellwoods (Mr. McClellan) raising it in the Legislature and getting all sorts of assurances from the board and from the Ministry of Labour that he should not worry about it. Now it is the board and the people who pay for it who are concerned. The one thing that I was...

1515 follows



(Mr. Laughren)

~~that he should not worry about it, that now it is the board and the people who pay for it who are concerned.~~

~~The one thing that I was~~ interested in was the opinion of--I think Mr. Neal would be the one to answer this: if the nature of work is changing, which most of agree it is, and there are things like remote control scoop ??trams being put in the mines which will remove some of the danger of underground mining which is, by nature, a dangerous operation, can something like the unfunded liability take into consideration the changing nature of work, or can it only work on numbers as they have historically unfolded? Can there be an anticipation of the changing nature of work when talking about unfunded liability?

Mr. Neal: Yes.

Mr. Laughren: How?

Mr. Neal: And must be, because we are not just number conscious.

Mr. Laughren: You know I would not imply that.

Mr. Neal: I know you would not do that.

Mr. Lupusella: You could say worse things.

Mr. Neal: The actuarial profession is, in many respects, an art rather than a science because it is a judgement, to judge how long injured workers are going to stay on benefit. To start with, it is a relative thing. How long do you think a worker is going to stay on benefit, on average, five years after the year of accident than he did this year for accidents that occurred five years ago?

I maintain that the answers are, in part, how easy it is for a worker to return to work. I maintain that the number of workers who will be on temporary compensation five years after the year of accident, very few of them will have been on for the whole five years, they will have been on again, off again, on again, off again, with recurring back and all sorts of problems.

The number of injured workers on benefit five years after the accident, and how many weeks that year they are on, are dependant, quite significantly, on the types of employment the employer can provide.

If society is going to remove certain types of jobs, and those injured workers do not have the job skills to do anything else, unless high tech is starting to do something about it and they do it on an increment basis for a large number of years as the most reasonable prognosis, then injured workers have a much harder time returning to work today than they did five years ago.

Mr. Laughren: Despite Mr. Darnbrough's efforts.

Mr. Neal: That is right; without Mr. Darnbrough's efforts, heaven help us, and it is likely to get worse, is it not?

Mr. Laughren: Yes, that is what I am worried about.

Mr. Lupusella: Not really, because you only--

Mr. Neal: I was being accused of not having one a minute ago.

Mr. Lupusella: It only refers to the older generation of injured workers. The new generation of injured workers, I am sure, are coming out of schools and universities and they have more skills which the older generation does not have, so I think the board will be faced with the same dilemma to find jobs, not because they cannot find it, but they will be faced with a new generation of injured workers in the future. They went to school, they went to grade 13, they have diplomas, they have degrees and so on, so you cannot count on your own judgement that you will be faced with the same generation as the construction worker who spent his life, 20 years in the construction industry.

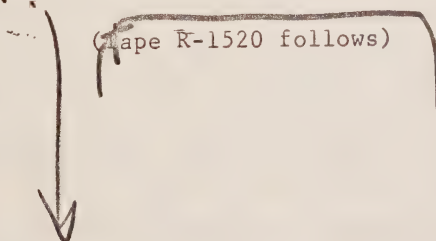
You will be faced with people who went to school and they will not accept the principle of technical changes because they have the background of education to face it, so I do not think there will be a great change in relation to the principle of rehabilitation. The job scarcity might become an issue because of economic conditions, so I leave it to you on that issue, but not because of the high technological changes which are affecting our society.

Mr. Neal: You do not think that will be affecting the 45-year-old injured worker?

3:20 p.m.

Mr. Lupusella: First of all, you have to talk about the time framework ②.

(Tape R-1520 follows)



~~(Mr. Lupusella):~~

~~... high technological changes which are affecting our society at this time.~~

~~Mr. Neal: You do not think they are affecting the 45-year old injured worker?~~

~~Mr. Lupusella: First you have to talk about the~~
~~frame work.~~

Mr. Neal: My unfunded liability is exclusively dealing with existing injured workers. It has nothing to do with 1990 injuries.

Mr. Lupusella: What about Bill 101, new injuries?

Mr. Neal: My unfunded liability is dealing exclusively with injuries that have already occurred.

Mr. Lupusella: What about Bill 101? Does it have nothing to do with the unfunded liability?

Mr. Neal: Bill 101 primarily is ?? future injuries and it will affect our unfunded liability once we go through a year where that has been there and we now have a year of new injuries that are fully entitled to Bill 101 and we will find out whether our 1985 assessment rates were adequate to reserve those new claims under the new system in terms of what we are talking about today.

Mr. Lupusella: So you might be faced with double digital problems about unfunded liability, the present one and the future one of the generation of injured workers that will be covered under Bill 101. So the problem of unfunded liability might become worse unless certain measures are taken to diverse and correct the situation of unfunded liability.

Mr. Neal: Which we are working on.

Mr. Lupusella: In a decade I did not see any answer yet.

Mr. Neal: The 1985 assessment rates are 20 per cent per worker higher than the 1984 assessment rates in a world of five per cent inflation. That is a 15 per cent increase in the real cost per worker in one year, and the plan is to continue to attempt to do that to the extent that industry can accommodate it for as long as it takes to get the base up.

Mr. Lupusella: I understand what you are trying to say. Are you telling us that the 12 per cent is going to reduce the unfunded liability?

Mr. Neal: It is going to reduce the rate of increase. You have got to stop it increasing before you can start reducing it.

Mr. Lupusella: But from 1982 to 1983 the unfunded liability increased, do you agree with me?

Mr. Neal: Yes.

Mr. Lupusella: 1983-84 the unfunded liability will increase?

Mr. Neal: Yes.

Mr. Lupusella: Are you saying that if we stop the unfunded liability at the percentage where it is now in 1984-85?

Mr. Neal: No.

Mr. Lupusella: So what are you trying to tell us, I am sorry?

Mr. Neal: I am saying that the rate of increase is being slowed down. You seem to be suggesting that the board should double its premium rate?

Mr. Lupusella: I gave you different alternatives. The first one, prevention and reduction of a number of accidents, and if the industry will not take such responsibility, then increase the assessment to deal with the problem.

Mr. Neal: It is my understanding a great deal of work is being done there, but again there are people far more expert than I to answer those questions.

Mr. Chairman: We got Mr. Neal here to deal with the unfunded liability as it was at 1983.

Mr. Laughren: I have a couple more questions, one has to do with the length of time that you anticipate it will take to get the unfunded liability back to where it is reasonable. How long will that take?

Mr. Haggerty: Here is your crystal ball.

Mr. Laughren: You must have a goal.

Mr. Neal: There was a suggestion made in the summer of letting the assessment rate rise to \$3 over a two or three-year period on average, and if that were to occur, and the duration on claim stays at about the 1983 level, and the only amendments to the act are preservation of purchasing power, and industrial disease does not become a problem that it may well become, then \$3 will amortize the deficit over 30 years. There were an awful lot of qualifiers in what I just said, were there not?

Mr. Laughren: I asked because I was going through some of the old Hansards and I did not realize you had been around at least since 1966.

Mr. Neal: 1975.

Mr. Laughren: I will tell you why I asked. I was going through some of the old Hansards. I did not realize you have been around at least since 1966.

Mr. Neal: Nineteen hundred and seventy-five.

Mr. Laughren: Nineteen hundred and seventy-six. I am sorry, what did I say? I meant 1976. In 1976 in a discussion before this very committee, you were defending, at some length, the unfunded liability and how we should be--

Mr. Neal: Just newly disclosed--

Mr. Laughren: Yes, and why it was \$400 million and not \$300 million. You state at one point--now we all live with statements we made in the past--

Mr. Neal: I am about to learn.

Mr. Laughren: Yes.

Mr. Neal: Something tells me.

Mr. Laughren: I would not invite you here and then embarrass you. You are talking about assessment rates and about one generation of employers being a burden on another, which we understand. You state: "We would look for, perhaps by 1981, all unfunded liabilities to be retired over a period of less than 10 years. Industry is in complete agreement with us on that matter."

Mr. McLellan said, "I am sure they are. I am not satisfied with that ?? You replied in a question, you said, "Unfunded liabilities should be retired over a period of 10 years?" Mr. McLellan said, "No, the converse." And you said, "That 20 years is too long?" Mr. McLellan said, "Yes. Mr. Neal said, "We in industry are in complete agreement with you."

When you were saying those things where able to go back to the corporate board to whom you report, I assume, and make recommendations that would be in keeping with how you felt. For example, you must make assessment recommendations to the corporate board.

Mr. Neal: Certainly.

Mr. Laughren: Are they accepted?

Mr. Neal: They have often been accepted, yes.

Mr. Laughren: Back in the days we are talking about, could I safely assume that they were not accepted?

Mr. Neal: By and large the proposals that I made in those days were accepted.

Mr. Laughren: Really. I am surprised an actuary would admit that because it seems to me that you, as an actuary, without using the whips that my colleague used because it tends to inflame--

Mr. Neal: As a humane actuary.

Mr. Laughren: Yes.

Mr. Laughren: You are going to tell me in a moment--

Mr. Lupusella: I do not have a computer in front of me.

Mr. Laughren: I have never said that an actuary is an accountant without a heart.

Mr. Neal: I know.

Mr. Laughren: I have never said that. I have often said--

Mr. Neal: You have said other things.

Mr. Laughren: I said they were an accountant with a sense of humour but never an accountant without a heart. It seems to me that you must have, in those days, been very concerned about what was happening. You must have seen much clearer than most of us would who are laymen in this field. You must have seen those warning lights there and tried to do something about it.

Mr. Neal: At that particular point in time, very shortly after that occurred, the reverse occurred. If you would look at the 1976 benefit awards relatively to the 1975 benefit awards, I believe that they went up by only three per cent. Between 1976 and 1977, the benefit awards only went up by three per cent. That in actual fact showed the signal to us that perhaps we were--as farcical as it would sound today--oversetting the liability.

Mr. Laughren: Even though it was set at \$400 million.

3:30 p.m.

Mr. Neal: When it was set at \$400 million, the unfunded, no allowance for future ad hoc amendments there. We had the 1974 amendment, which was a parcial cost-of-living type animal. The 1975 amendment was the first amendment that provided full cost of living adjustment for one year.

We are then into the year of the Wyatt company, having been retained by the then Minister of Labour. That review process did not complete its fair space until the spring of 1978. I believe you will find that the Wyat report was tabled in the spring of 1978...

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(Mr. Neal)

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that review process did not complete its first phase until the spring of 1978. I believe you will find that the Wyatt report was tabled in the spring of 1978 and the 1978 amendment came very shortly thereafter. Even at that point there was then an interministerial committee set up to review the Wyatt report, post-mortem the 1978 amendment, which presumably finished its work shortly before the 1979 amendment, in late 1979.

In 1977 we saw a three per cent increase in benefit payments over 1976, in spite of the fact that inflation was far higher than three per cent at that time. Assuming that we should not prefund future amendments, the signals were that we were going too fast.

Look at the 1978 balance sheet. We had a three-year cost-of-living amendment and the unfunded liability during 1978 rose by \$10 million or \$15 million from \$380 million to \$390 million, that sort of thing. It looked as if we had overreacted.

Mr. Laughren: Why would you say that when even if there had been no legislated increases coming, even if the inflation rate was to drop, you were still sitting there will a \$400-million unfunded liability that you presumably were concerned about and wanted to eliminate over a period of less than 10 years.

Mr. Neal: Without a three-year cost-of-living amendment in 1978, our unfunded liability would have halved during 1978. That suggested that the 1978 assessment rate was a little high.

Mr. Laughren: Were you anticipating no legislated increase?

Mr. Neal: If there had been no 1978 amendment--

Mr. Laughren: Wait a minute now. One minute you tell us that being an actuary is an art as much as a science--

Mr. Neal: They Wyatt report suggested the 1978 amendment should not have occurred, as you were very well aware at the time, I am sure.

Mr. Lupusella: Am I wrong to tell you that--

Mr. Chairman: Let Mr. Laughren finish his questioning, please.

Mr. Lupusella: --the total increases in 1978 were in the range of \$78 million?

Mr. Neal: The 1978 amendment cost \$240 million, from the 1978 financial statements, which I happen to be looking at.

Mr. Lupusella: I am talking about the increases in pensions. Maybe you are talking about the total budgetary increases on all levels of benefits.

Mr. Neal: The 1978 amendment produced an increase of up

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(Mr. Neal)

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to about 27 or 28 per cent. It was 11 per cent, 10 per cent and six per cent compounded over three years.

Mr. Lupusella: I have a better explanation.

Mr. Chairman: Back to Mr. Laughren.

Mr. Lupusella: I am trying to defend Mr. Neal. I have been accused of--

Mr. Gillies: A change of heart.

Mr. Lupusella: No, I have a different explanation from my colleague. At the time when these types of statements were made he was speaking with his own brain but later on he was embraced with the philosophical approach of the board and that is why the unfunded liability increased, which means that he did not speak out with his own head.

Mr. Laughren: His mind has become polluted.

Mr. Lupusella: Right.

Mr. Chairman: Now that we have got that point straightened out, Mr. Laughren, do you have any further questions or are you satisfied with answering your colleague.

Mr. Laughren: It does explain some of the problem perhaps. Mr. MacDonald in those days was getting into the act as well. He stated--

Mr. McDonald: Not me.

Mr. Laughren: Mr. A. G. MacDonald.

Hon. Mr. Alexander: Who is absent.

Mr. Laughren: Who is ill and we shall not malign him. "In terms of recovering the funds for which we now have actuarial estimates, in terms of our full liability for the future, our assessment rates this year"--this was in 1976--"are just breaking us even for 1976 liabilities. It will not be until 1977 that we start to recover against our outstanding total deficit of unfunded liability."

I guess, Mr. Neal, what you are saying is that was assuming there would not be a legislated increase, was it not, for Mr. MacDonald to have said that?

Mr. Neal: That is correct.

Mr. Laughren: That is where I think common sense departed the board collectively, that they would assume that there would not be a legislated increase.

Mr. Neal: I do not understand why you would say that.

Mr. Laughren: For the same reason that--no, a different reason--you were able to assume prior to 1975 because, was it not a fact, that you did not take rates of inflation into consideration when dealing with the liabilities of the board. Right? How could you not take inflation rates into consideration when you were dealing with liabilities of the board? You did not prior to 1975.



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(Mr. Laughren)

nothing to do with, you did not take it into consideration when dealing with the liabilities of the board. How could you not take inflation rates into consideration when you were dealing with liabilities of the board, but you did not prior to 1975. You were not there, but why would the board do that? You may wonder why we, as lay persons, would challenge the wisdom of the experts at the board, but we have seen what happened?

Mr. Neal: You are actually challenging my profession rather than the board.

Mr. Laughren: Yes.

Mr. Neal: What we are doing is leading edge for the profession. I am serious.

Mr. Laughren: Holy mackerel.

Mr. Neal: Take ?? pension plan providing \$15 per month per year of service. We all know that the 30-year-old worker who accumulates that pension this year will finish up with far more than \$15 per month for that year of service by the time he retires.

My profession, however, and union leaders will insist on pricing it at that level during the negotiation process. No union would allow an employer to price that \$15 in constant dollars and say, "That is not going to cost three cents per hour per worker, that is going to cost 15 cents," which is probably what it is really going to cost in the negotiation process. It will be priced at three cents.

Mr. Laughren: But it is also renegotiated in a year, two years or three years--

Mr. Neal: Each time it is renegotiated it is priced.

Mr. Laughren: Right.

Mr. Neal: Why should not worker's compensation be the same?

Mr. Laughren: I wish it had been.

Mr. Neal: It is more aggressive than that already.

Mr. Laughren: Wait a minute now. If that were true, if you had been pricing your assessments in keeping with your obligations, you would not have an unfunded liability that is flirting with \$5 million in years to come. You would not have been. How could you have?

Mr. Neal: The same reason that same pension plan has a large unfunded liability. Have you seen the size of the unfunded liabilities in those sort of pension plans?

Mr. Laughren: No, I have not.

Mr. Neal: They are very substantial.

Mr. Laughren: Just two weeks ago, I got a press release from Inco saying that they have taken \$100 million out of their surplus of their pension plan in the US and were using it to write down their debt.

Mr. Neal: They probably have a lot of employees that do not work for them any more and there was a surplus which relates to those employees who left service.

Mr. Haggerty: Let us hope it does not touch the Canadian part of the plan.

Mr. Laughren: I think we are getting off on a tangent here. My point is that it seems to me the board, somehow, is getting away with something that I really find offensive. You may not be getting away with something legally or even actuarially, but there is something wrong when the people who run the board can run the unfunded liability up to \$5 billion, by your own admission, in the years to come. There is something fundamentally wrong with that.

You can look for scapegoats if you like.

Mr. Neal: I am not looking for any scapegoats.

Mr. Laughren: There is something fundamentally wrong. If it was simply a case of redressing assessment rates then I would not be so upset about it, but I know who is going to end up paying for that. It will be the people who are supposed to get decent benefits.

Interjection.

Mr. Laughren: The employers will pay a chunk too and probably a very healthy chunk because of what I would call and I do not think it is unfair to say that represents mismanagement of the board. I really think it does. I would not be allowed to get away with that. The federal government tried it. They did not get away with it, did they?

Interjection: No.

Mr. Laughren: They were turfed out of office last fall for doing exactly what the board is doing.

Hon. Mr. Alexander: Are you implying now that you are very happy to see a Tory government in Ottawa? Is that what I--

Mr. Laughren: Are you kidding?

No, they are liable to run the country the way the board--

Hon. Mr. Alexander: I do not know.

Mr. Laughren: I just think it is unfair--

Mr. Neal: I think you are taking it out of context. I really do.

Mr. Laughren: You think what?

Mr. Neal: I think you are taking it out of context. Let us take Canada pension plan.

Mr. Laughren: That is a pay-as-you-go plan.

Mr. Neal: But why? Why should worker's compensation not be pay-as-you-go?

Mr. Laughren: Maybe you should. But you have chosen not to do that.

If you want to go to a pay-as-you-go plan, without being an expert on it, I do not think I would be very upset, but that is not what you have chosen to do. You have chosen to go the other route. There are basically the two routes to go on pensions, is there not? Pay-as-you-go or the ?? funded.

Mr. Neal: Most pension plans, except in the public sector, cannot be pay-as-you-go.

Mr. Laughren: No?

Mr. Neal: In order to ensure that the worker's benefits is there, has some guarantee towards it.

Mr. Laughren: Okay, to assure there are payments there.

3:40 p.m.

Mr. Neal: Should worker's compensation be financed to fully cover future ad hoc amendments if the act is ??not indexed? Is that a straight-forward question?

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(Mr. Neal)

... (b) finance to fully cover future ad hoc amendments if the offer is not indexed. Is that a straightforward question?

Mr. Laughren: If it is not--

Mr. Neal: Fully indexed in the legislation. I do not think that is an obvious, simple question to answer.

Mr. Haggerty: But they do it in the private sector, ?? sickness and accident insurance, and they are not going into debt over it. How do they manage?

Mr. Neal: They do not invest those benefits.

Mr. Haggerty: Certainly they give sickness and accident insurance.

Mr. Neal: They do not index long-term disability benefits.

Mr. Haggerty: Well, it is based upon a percentage of the wages.

Mr. Neal: Yes, but the benefit is not increased after the sickness starts.

Mr. Haggerty: If their wages increase, their pension increases, too--?? their pension, but their accident insurance.

Mr. Neal: But not the person who is sick. If a person is on long-term disability for 20 years, unless the employer chooses to upgrade the plan and do it for existing beneficiaries, which many of them do not, those benefits are frozen and the purchasing power is eroded every year.

Mr. Haggerty: That is not the way I--there is some question about your comments on that particular area, because there is known in the United States where there is private compensation, that they are pretty well protected by it. The industry does not charge as much as what they are here, in a sense, but the insurance somehow manages to make it go--the private insurance carrying compensation.

Mr. Neal: Well, the incidence is much lower. The generosity of the benefits are much lower.

Mr. Haggerty: I do not know about that.

Mr. Neal: You get paid for two years if you cannot do your own job and then you are getting paid if you cannot--you have got to be able to ??undo any job.

Mr. Haggerty: He would draw the same.

Mr. Neal: Generosity of benefit under workers' compensation legislation is much wider than ??LTD.

Mr. Haggerty: You can draw the same parallel here, unless you are only on short-term disability. Yes, you are getting 75 per cent, or it may be increased more than that now under the new scheme.

Mr. Laughren: Mr. Chairman, I hope the record will show that it is the Socialists who are arguing for a Conservative fiscal management on the board.

Mr. Haggerty: But I suggest to you that when you look at it in that way, if you look at those who only get a 10 per cent or 15 per cent award for a back injury and he has lost his total source of income, you are paying him peanuts. But on the American side, in the private sector, they are getting paid for that loss of wage income--maybe not the full amount, but 80 per cent or somewhere in there.

Mr. Laughren: Mr. Chairman, if I might continue, one of the things that bothers me is that despite the changing nature of work, which should mean less dangerous work, despite the shift from the ?? changing nature of work--more and more white-collar work and so forth--it does not seem to have altered the board's long-term predictions of liabilities. Perhaps it is realistic--I am not suggesting that you are being unrealistic in that regard; I fear that you are being realistic. What is depressing is despite all that changing nature of work, we are still predicting enormous compensation costs in the province. I do not know whether that is because of a potential increase--which I fear but I was hoping you would not--in industrial diseases through the chemical industry, and that kind of thing.

Mr. Neal: There is no allowance for that.

Mr. Laughren: There is no allowance for that at all. I tried to get at this earlier. Given all that, why are you still predicting such enormous compensation costs?

Mr. Neal: First of all, again, we are dealing with claims that have already occurred for those workers. The reduction in risk in the work force in the future is of no solace to them whatsoever because their injury has already occurred. You cannot change the volume of claims that have already occurred. The only thing you can do is rehabilitate them. In spite of all of Mr. Darnbrough's programs, the reality for a lot of injured workers out there is the job they came from has disappeared from the economy in the last four or five years and is unlikely to return. There are serious dislocation problems there. Yes, my forecasting is pessimistic in its outlook for those job opportunities, in effect. I believe it is not quite so direct, but in reality, the numbers are pessimistic--

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son
(Mr. Neal)

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...my forecasting is pessimistic in its outlook for those job opportunities, in effect. It is not quite so direct, but in reality the numbers are pessimistic rather optimistic because of a perception that injured workers, particularly those who are too old to be realistically retrained in masses--individual cases can be successful, obviously--and it is not going to happen. The payments are going to be made. It would not be appropriate for me not to forecast that and leave everybody in a false paradise.

As Howard ??Cossell would say, "Tell it like it is," and then you get into trouble for doing so.

Interjections.

Mr. Laughren: Does your office try to measure the tradeoffs in cost between prevention and payment of benefits? Is that your role as an actuary?

How do you get a message to the corporate board that says that these are the protected costs or increases, rates of assessments or whatever, under this set of circumstances--I believe in that petition they called them models--and under this model, this is what will happen, but in this one, on the other hand, even though there are certain costs attached to prevention, substantial costs, this would be the result if those preventive measures were put into place, and this would be the impact on the assessment rates and so forth? Is that your--

Mr. Neal: I do not think it is possible to develop a model which says that if you put these prevention measures in place that there is a direct cause and effect. I can clearly show the board if lost-time injuries, which are the ones that really matter, are reduced by 10 per cent permanently, then the unfunded liability, instead of being funded over 30 years, will be funded over 17 years, or whatever the number is. That sort of gain is obviously relatively straightforward, but to say that if you take this and this measure, if you force every company with 20 or more employees to have a safety committee, that in itself will do the--who can forecast those things?

Interjection.

Mr. Neal: Who could forecast those things?

Mr. Lupusella: Floyd can.

Mr. Laughren: In your area do you get into the whole question of rehabilitation? If there is rehabilitation to a satisfactory degree, that it takes this person off supplement and so forth--do you do that? That this will be the impact on assessment rates?

Mr. Neal: Not directly.

Mr. Laughren: I do not want to imply, as my colleague would, that you do not think about these things and do not involve yourself in them, but it would seem to me that would be a useful role for the actuary.

Mr. Neal: As we are increasing--

Mr. Laughren: I know, it would increase Mr. Darnbrough's empire, but nevertheless, that might be a useful thing, if he had the wherewithal to have a better rehabilitation program, for which I think there is some room. You do not have that?

Mr. Neal: The models are moving in that direction. The actuarial department workers ?? Ontario is 10 years young, and the type of thing you are suggesting requires an enormous amount of information before you can even start to then say that if I press this button, what happens. It is pretty sophisticated. You can answer the simplistic question--if you can get the guys back three days sooner, this is what it does, but that is not what you are talking about. That is easy. When I ask someone to consider a program and ask him what it is going to do, and ask him to help me with my cost benefit study, that requires some pretty sophisticated model techniques, to say the least.

3:50 p.m.

Mr. Laughren: All right. Let us come at it from a different direction then. What if Mr. Darnbrough went to you and said that an enormous proportion of the problems with rehabilitation concern the lower back, as I suspect is so--I suspect it is an enormous proportion of it. What if we went to you and said that if we could remove the low back problems from the equation--

(R1550 follows)



(Mr. Laughren)

...I suspect they are. Without knowing, I suspect there is an enormous proportion. What if he went to you and said, "If we could remove the low back problem from the equation?" What would happen to assessments, what would happen to that kind of thing?

Mr. Neal: With six months lead time we can do that sort of thing.

Mr. Laughren: It has been 10 years.

Mr. Neal: Ten years ago it would have taken a much longer lead time because this information was not even--

Mr. Laughren: So you are going to wait until it is a reasonable length of time, I see.

Mr. Neal: I said to you up front it takes a long time to put the basic stuff in place.

Mr. Laughren: I do not doubt that a bit, but what must drive the board to distraction, and certainly the rehab department, must be those low back problems, and the appeal system. If you ever took back problems out of the appeal system, my goodness, there would be an incredible--

Mr. Neal: If you can take old and nonvisible injuries out of the system, life becomes nice and straightforward and simple, doesn't it?

Mr. Laughren: Right. Obviously you cannot do that. I am not trying to be that simplistic. What I am saying is that if rehab had a program, which they do not have now, for back problems. That is why rehab is the area of the board that before this committee should require most of our tender loving attention, because I believe that is where the whole thing is falling apart is with rehab, and I suspect it is because of what Mr. Darnbrough has to work with rather than because he has got the mind of an actuary or something like that.

Hon. Mr. Alexander: I do not think he appreciates that.

Mr. Laughren: That was said in--

Mr. Neal: I was going to say I have not heard a compliment such as that in a long time.

Mr. Laughren: That was meant as a compliment to Mr. Neal. I will stop for a while.

Mr. Chairman: Mr. McKessock, you had a question a while ago, or a supplementary there.

Mr. McKessock: That was about two hours ago. I forget what it was.

Just to follow up on that. You mentioned that you had a program for the low back. I am not sure what kind of a program that would be unless you could supply light jobs for everybody with low back problems so that you could get them back to work.

Interjection.

Mr. McKessock: It would be great to be able to cut the costs like that, but to get rid of the low back problems.

Hon. Mr. Alexander: Are you through with Mr. Neal for a moment, sir?

Mr. Chairman: I think Mr. Haggerty had a question.

Mr. McKessock: I would just also like to turn to page 24 in the annual report where it does list the unfunded liability, and I just want to clarify a few points here, and that is under the expenses where it talks about provision for increase in estimated present value of future payments to existing claimants, that is the unfunded liability?

Mr. Neal: No. That is the increase in the liability itself.

Mr. McKessock: That is the increase itself?

Mr. Neal: If you add the three items up, they come to \$630 million, and if you go further up the report to the liabilities--that is under the liability part of the balance sheet, the second line under liabilities--you will see that we went from ??\$3.31 million to ??\$3.95 million. The difference between those two figures is the \$640 million, which is the sum of those three items. The unfunded becomes the difference between--it is a little more complex than that.

Mr. McKessock: You are telling me that is an increase this year, but yet when you--

Mr. Neal: The liabilities increased by that amount, and as the assets did not increase at all, then yes, it becomes the increase in the unfunded.

Mr. McKessock: But when you look at that \$293 million and \$147 million, they are less than last year.

Mr. Neal: Yes. I believe the 1982 amendment is a nine per cent amendment, and the 1983 amendment is a five per cent amendment, if memory serves me correctly.

Interjection.

Mr. Neal: That is why the \$210 million went down to \$147 million because it was five ninths of the size of the amendment.

Mr. McKessock: Then, next, you have gone up by \$50 million, which you are projecting. That is projecting ahead there.

Mr. Neal: That is just a further provision.

Mr. McKessock: For the future.

Mr. Neal: For future amendments...

1555 follows



~~(Mr. McKessock):~~

~~You have gone up by 59. That is the projected one ahead there?~~

~~Mr. Neal: That is just a further provision~~

~~Mr. McKessock: For the future~~

Mr. Neal: For future amendments. The total provision has reached half a billion dollars and during 1983 we increased it from \$300 million to \$500 million so the increase is 200 and hence because this is an increase in a liability item here because it is an expense item. It is pretty complicated.

Mr. McKessock: I just want to go back to something you said half an hour ago. You said if you increased it by \$3 you would wipe out the unfunded liability figures.

Mr. Neal: If we increased the average assessment rate to \$3.

Mr. McKessock: What do you mean by that?

Mr. Neal: Three dollars per \$100 a person.

Mr. McKessock: That is a minimum of \$3?

Mr. Neal: No an average.

Mr. McKessock: An average of \$3.

Mr. Laughren: That would be a 50 per cent increase.

Mr. Neal: Roughly, yes. The rate for 1985 is estimated to be \$2.31.

Mr. McKessock: That is the average.

Mr. Neal: The average is \$2.31 up from \$2.17 in 1984. Those averages keep moving around because the mix of work force between industry shifts and the average therefore changes.

Mr. McKessock: I see. When you said increase it by \$3.

Mr. Neal: Increase it to \$3 from \$2.17 last year.

Mr. McKessock: You were really saying increases by 50 per cent.

Mr. Neal: Yes.

Mr. McKessock: Everyone would be increased differently. Same percentage but--

Mr. Neal: No. Different industries would be different.

Mr. McKessock: Different percentage?

Mr. Neal: Some industries are in much worse shape than others or conversely some are in better shape than others because each industry stands on its own two feet.

Mr. McKessock: If you increased it to \$3, you are saying that you would increase everybody by the same percentage to bring it up to \$3?

Mr. Neal: No.

Mr. McKessock: So you would go over it then and increase--

Mr. Neal: We look at each individual rate group and what was needed there. Some rate groups--

Mr. McKessock: You are saying they are not right now then?

Mr. Neal: The changes that have occurred differ for different industries. Some industries have not suffered a recession and not surprisingly, the time their workers are staying on benefit is not increased. For others the recession has been extremely hard and the time their workers has stayed on benefit has increased by far more than the average. These things affect their own funded liability and affect the cost of new plants.

You have to be careful when you are dealing with averages that you do not infer that it applies equally to each of the 110 industry groups that we have because the impacts are different for different rate groups.

Mr. McKessock: How do you do this on a yearly basis? Do you make these changes on a yearly basis do you not? You are looking at them all on a yearly basis anyway.

Mr. Neal: That is right.

Mr. McKessock: To say you would increase them to \$3.

Mr. Neal: No. This was just to increase the average rate.

Mr. McKessock: But to say that, you are still saying you are not just going to increase them all by 50 per cent, you are going to look at each one a little harsher than you do each year. You are going to go over them again but look at them a little harsher.

Mr. Neal: Each one you are going to revisit each year.

Mr. McKessock: The consequences being you would raise the premium to \$3 instead of \$2.31.

Mr. Neal: On average.

Mr. McKessock: On average.

Mr. Neal: It is obviously difficult to communicate 108 different numbers and they are moving. You have to go the averages to communicate strategically what you are trying to do.

Mr. Laughren: Really the corporate board would kick you in the head if you--

Mr. McKessock: But you are doing that every year. Really what you are saying what you would do to increase it to \$3, you are doing it every year but you would just be a little harsher. Am I right?

Mr. Neal: Basically we have a method of setting the rates, yes, which comes to a number which we then say that we will limit the increase to a maximum of 15 per cent. So if the rate was \$1, the maximum increase is 15 cents to \$1.15. The next year the maximum would be another 15 per cent which would bring it up to \$1.32 or whatever because it compounds.

We have said an industry's cost should not change by more than a certain amount from one year to the next. It should have time to phase the change in. At the present time we have talked for several years now of a maximum increase of 15 per cent. There was a pull a couple of years back to make it higher than that, but increase audit could not handle it and they got their 15 per cent back.

Mr. McKessock: How often do you make that decision?

4:00 p.m.

Mr. Neal: It is every year and the maximum increase is

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~~(Mr. Neal)~~

~~higher than that but industry thought it could handle it, I know they got their 15 per cent back.~~

Mr. McKessock: How often do you make that decision? Is that a yearly thing?

Mr. Neal: It is every year, and the maximum increase is part of the corporate board's decision.

Mr. McKessock: I have one other thing. You were talking about the assets you have and the investment you make. The investment income there shows that you made this year \$166 million.

Mr. Neal: Yes.

Mr. McKessock: How much did you have invested to make that?

Mr. Neal: In the ore? If you take the \$1.969 billion, first of all, as liability, of the total assets, you then have to remove from that the noninvested assets such as accounts receivable. Employers are billed quarterly instead of paying their premium up front, for instance. You basically come down to about \$1.65 billion of invested assets.

Mr. McKessock: You have \$1.65 billion.

Mr. Neal: In rough terms. It is the first two lines of those assets, in rough terms. You really should take the average of that figure in the previous years to know what the average invested assets during the year were, if you want to start coming down very specifically on it.

Mr. Haggerty: That is about a 10 per cent return on your money then, is it not, if you are talking about \$166 million?

Mr. Neal: Yes, it is a little over 10 per cent.

Mr. Haggerty: That is different than the average we got over there. It was 11.85.

Mr. Neal: That was on mortgages. You are getting into the gains of running yields versus average yields.

Mr. McKessock: So you are about \$250 million under. If you take those investments off your unfunded liability, you would have a deficit of about \$250 million. Is that right?

Mr. Neal: I am completely lost now.

Mr. McKessock: If you have assets that you have invested of \$1.5 billion or \$1.6 billion, and your unfunded liabilities are \$2 billion, then you are in the hole by about \$250 million really.

Mr. Neal: You are saying that I should have had \$400 million of investment income.

Mr. McKessock: I am just saying that if you had a \$2 billion investment income and you had a \$2 billion unfunded liability, you would break even.

Mr. Reilly: The ?? liabilities, in fact, were \$3.994 billion. The liabilities are \$3.994 billion there, less the assets of \$1.969 million. That leaves you the unfunded liability of \$2.025 billion.

Mr. McKessock: I was just trying to make it look better, but I was just saying that you have got a liability. You have got an investment.

Mr. Reilly: But the investments are already taken off.

Mr. McKessock: Oh, the investments are taken off.

Mr. Reilly: Yes.

Mr. Neal: The \$4 billion liability is actually related to \$12 billion of benefit payments, discounted back to allow for future investment income.

Mr. McKessock: I see. So when you get the unfunded liability, your capital investments have already been taken off.

Mr. Neal: Yes.

Mr. Gillies: And future return.

Mr. Neal: Yes, the future return is there. Otherwise, obviously, we would be accused of grossly overstating what we need. We would not want to be hit with that one.

Mr. McKessock: I am used to reading the Ontario budget, and sometimes that happens.

Mr. Neal: This is full accrual; this is not cash accounting.

Mr. McKessock: Another thing that was brought up earlier was about the \$408 million in mortgages and the fact that Canada Mortgage and Housing Corp. guarantees that to you. The question was asked before--it was not quite answered--as to what the cost is of that guarantee.

Mr. Neal: There are two costs, in a sense. Obviously, the person who borrows the money from us pays an insurance premium. He pays it.

Mr. McKessock: Plus the interest rate that you charge?

Mr. Neal: That is his problem. Our cost, if you want to knock us, is "Yes, there are mortgages that will have a higher yield without the guarantee, but together with that higher yield is a higher risk." That is a judgment call as to whether you buy

is
(Mr. Neal)

an investment. The higher the risk, the higher the yield, obviously. Our feeling is that it is not worth the slightly higher yield to take all of that risk.

Mr. McKessock: I was just wondering how that worked. Do they buy the insurance premium from CMHC?

Mr. Neal: Yes, direct to them. That is my understanding.

Mr. Haggerty: Have there been any defaults in this particular area?

Mr. Neal: We have had the odd one--right, Bob?--where we have had--



R-1605 follows

...I wondered how that worked. Do they buy the insurance premium from Canada Mortgage and Housing Corp? Do they pay it directly to them?

Mr. Neal: That is my understanding

Mr. Haggerty: Have there been any defaults in this area?

Mr. Neal: We have had the odd one where we have had to collect from CMHC, right, Bob?

Mr. Reilly: Yes, where there is default on a mortgage; we then look to CMHC for reimbursement. They will reimburse that mortgage amount to us, and they take over the responsibility.

Mr. Haggerty: What numbers are we looking at, in dollars?

Mr. Reilly: A very small--nowhere near that. No. We have never lost anything on a mortgage. What we do, we recover from CMHC. We do not lose. If we do not get it from the principal, we get it from CMHC. They take over the mortgage.

Mr. Haggerty: I did not think you were going to get back to me after all that.

Mr. Chairman: Sure. We have lots of time.

Mr. Haggerty: I want to look at page 12 and the changes in the accident fund investment portfolio. In the charts, in the green cover, you have long-term bonds. In 1981 you had 68 per cent of your portfolio invested in that. In 1982 it dropped to 63.5 per cent, and in 1983 it dropped to 63 per cent. So we lost nearly five percentage points.

At the bottom, under short-term securities, have you moved from the green to the white in short-term securities? The increase is about five per cent there. Is this what has happened to this? You have got into short-term securities?

Mr. Reilly: Yes. The change in the mix is--depending on the advice we get from our consulting people who advise us on whether to go on long-term bonds or to mortgages or stay short.

Mr. Haggerty: What is the return on the short-term? What are we looking at in the overall picture?

Mr. Reilly: In 1983, the return on short-term was 9.5 per cent. It had been up to 16.5 per cent in 1981, 11 per cent in 1982, and in 1984 it has gone up to 10.97 per cent, almost 11 per cent again. There was a dip in 1983 because the rates dropped.

Mr. Haggerty: So in the short-term you are looking at six to 12 months' purchase on the short-term?

Mr. Reilly: Thirty, 60, and 90 days, usually, are short.

Mr. Haggerty: And you are only getting 9.5 per cent on that.

Mr. Reilly: On the short-term.

Mr. Haggerty: You are turning it over though, are you?

Mr. Reilly: Yes.

Mr. Haggerty: What would the end results be? Would they be doubling at 18 per cent or something like that?

Mr. Reilly: What was the question?

Mr. Haggerty: If you buy in 60 day notes at 9.5 per cent, for example, you are getting it back at 9.5 per cent and then you are reinvesting that--in the overall picture, on the original investment, what are you getting, 18 to 20 per cent return?

Mr. Neal: That is 9.5 per cent per annum. If it is a half-year security, it will give you about 4.75.

Mr. Haggerty: I would you be moving in that area. In the long-term notes, say, the five-year notes, you could probably get 11.5 per cent. You could get 11.5 per cent on five-year mortgages.

Mr. Reilly: At that time, long-term securities were probably lowered too. I cannot give you an exact figure because they usually run five years.

Mr. Haggerty: If we were talking about the peak period of the high interest rates--

Mr. Reilly: The peak years were--

Mr. Haggerty: In 1981 and 1982?

Mr. Reilly: Yes, we are taking about 1983. I am talking about--we are looking at our 1983 report. In 1982, the yield on short-term was 10.95 per cent. In 1981 it was 16.57.

Mr. Haggerty: If you had invested in the Ontario Development Corp., the average return would be about 12 per cent. There are some free interest--be careful of that one, but that goes for all sorts of clientele.

Looking at this, I must have Mrs. Haggerty take a look at this, she does a better job in investing than you people do, for return on money. I look at this, 11.5 per cent. In 1983 there were some peak periods of interest rates. If you look at your crystal

son
(Mr. Haggerty)

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ball and the forecast on the American side, the economists there thought that interest rates would be going up by the later part of January.

Interjection.


Mr. Haggerty: They are going up, and will remain until the end of April. Then they come down again because the farmers will have to borrow a little cheaper, but then it will go back up in the fall. So they will lose out again.

Mr. McKessock: How many investments have you got at 20 per cent?

4:10 p.m.

Mr. Neal: Not a lot--

(R1610 follows)



(Mr. Haggerty)

if you look at your crystal ball forecast on American society, the economists say that the interest rates would be going up at the later part of January, which they are going up now and will remain, I think it is until about the end of April, and then it will come down again and so the farmers will have to get ?? in the pitch and borrow a little bit cheaper. It goes back up in the fall so they will lose that again.

Mr. McKessock: How many investments have you got at 20 per cent right now?

Mr. Neal: Not a lot.

Mr. McKessock: Do you have some?

Mr. Neal: What is the highest yield that falls on anything, about 16 or 17 per cent?

Mr. Reilly: I could not tell you offhand.

Mr. Haggerty: If you buy Hydro bonds, for example, issued at 12.5 per cent, there is a good investment. It is a lot higher than we are getting here, even Ontario Hydro. I cannot understand why you are not getting the highest return possible.

Mr. Reilly: We are talking about average rate of return here. You are buying over a period of years, you are not selling today and buying again tomorrow.

Mr. Haggerty: ?? You are not ?? five years ?? I am sure.

Mr. Reilly: That is right. So therefore when you put away for five years, that is locked for five years at that rate whatever that may be.

Mr. Lupusella: You have investments in Hydro bonds of \$5000,000,000, I guess?

Mr. Reilly: We have a lot of Ontario Hydro bonds.

Mr. Haggerty: What is the return on that?

Mr. Reilly: It depends on when we bought them. Some of them may be at seven or eight per cent but some may be 12 or even 15 per cent.

?? Mr. Haggerty: ?? It could have been a five-year note.

Mr. Gillies: Five years ago was what? It is somewhat lower than it is now, so when you average it all in it is going to bring you down to ?? the current rate.

Interjections.

Mr. Gillies: True, but if you average it all out it also makes it ?? It has not been a little less attractive than it

actually is.

Mr. Haggerty: It has not been until just recently within 1984 that the borrowing from the Central Mortgage and Housing Corp. has been down below 11.5 to 12.75 per cent. Looking at what you are telling me here, the average return, I do not think that you are really getting the full value for what you are investing in this particular area.

Mr. Reilly: As far as the board's investment fund is concerned, it is reckoned to be in the top third of all the funds that Canada has--

Mr. Haggerty: Who are your advisers in this particular area?

Mr. Reilly: We have--

Mr. Haggerty: What security companies are we looking at? Do you just have one, two or what?

Mr. Reilly: We have got four people. We have got an independent economist. We have a vice-president and an economist of one of the major banks. We have a vice-president from one of the large employers in the province.

Mr. Laughren: Which one?

Mr. Reilly: The fourth one is a vice-president of one of the large insurance corporations. These people all have an economic background and they are all in the investing business. We meet with them quarterly and they give us their advice as to how they see the market. The board then will act. After we consider their advice, we will then decide what we should do.

Mr. Laughren: Would you allow a short supplementary here?

Mr. Haggerty: How short is it?

Mr. Laughren: Very short. ?? I would not reel you in, ??Rae.

Would it be a burdensome task to bring to the committee the list of investments? That would be available, it would not be--

Hon. Mr. Alexander: (Inaudible).

Mr. Gillies: Just a supplementary point. Anyone who is on the select committee on pensions had quite a presentation from the pensions commission and administrators of the various funds with lengthy explanations as to why their annual return in aggregate was not more attractive than it is. As I recall, some of those funds--I am thinking of public sector pension funds and so on--were only bringing in the six to seven per cent range. It sounded awfully low. That is why I was not surprised when I see this one coming in at maybe a point or two what we might think is

(Mr. Gillies)

optimum right now. It is really not that--

Mr. Haggerty: They were locked into long-term, I think. You are looking at--


Mr. Gillies: Some of them--

Mr. Haggerty: You are going back to about 1969 when they were purchased, the same as Canada pension. If we look at what Ontario has borrowed and what we are paying, 3.5 per cent or something like that.

Mr. Gillies: Yes. If you compare this fund to other comparable funds for various pension plans, it is really not that bad at all.

Mr. Haggerty: The other concern is that there are private carriers carrying some form of compensation. I think it is permitted under the act. Am I correct in that?

R-1615-1 follows.



~~(Mr. Haggerty)~~

~~...there are private carriers carrying some form of compensation.
I think it is permitted under the act. Am I correct in that?~~

→ Hon. Mr. Alexander: We have schedule 2, if that is what you are talking about, private self-insured, but other than that, no.

Mr. Haggerty: How is the success in this particular area, that it is not running into a deficit, in comparison to what is run by the Workers' Compensation Board?

Mr. McKessock: I think if I get Ray right here, an individual who is working for himself, if he has his own business, can buy compensation through a private plan.

Mr. Haggerty: That is right.

Mr. McKessock: You cannot have it for your employees, but you can have it for yourself.

Hon. Mr. Alexander: That is true.

Mr. McKessock: Is that not what you were talking about?

Mr. Haggerty: I do not know. I am looking at--

Hon. Mr. Alexander: I do not know whether it is any cheaper than the board. I guess that is the bottom line.

Mr. McKessock: It is usually ??

Mr. Neal: It does not provide the same benefits.

Mr. Haggerty: I am looking at the areas of domestic help and that, and now that they are going to be included under the workers' compensation, I understand there are some persons who have carried some form of compensation plan where if a person became sick or disabled through an accident, he would be compensated, and I understand it has worked out very well in the private sector.

I suppose the question we are coming to relates to the domestic persons who will now come under the act. What is your forecast in this particular area then? You have got your glass here. Take a look at it. Have you forecasted what revenue will be coming in and what is the possibility of the number of claims that will be established in the domestic area? Is there a balance in this thing?

Mr. Neal: That is a very difficult one for us because nobody really knows how many people are providing domestic services more than 25 hours a week for a single employer, the various provisions within Bill 101 that will cause a domestic to

(Mr. Neal)

be covered or not covered, and nobody has a really good handle on how many people are going to be involved. Also, nobody has any information on the volume of claims that will come from it because the information does not exist at the present time.

We can guess that the experience will not be significantly different from the experience of people who provide domestic service through somebody such as Molly Maid or whatever, who have been covered for a long time, so we are going to put them in that same rate group. I think it will be several years before there is enough experience to really know because in the short term a few unusual circumstances can distort the record of a small group because it will nevertheless be a fairly small group, but over a few years, we will find out what the experience is.

Any new industry that comes under the act, such as when the farmers were brought in in the mid-1960s, I believe, to start with you are dealing with guesses, approximations.

Interjection.

Mr. Neal: ??domestic thing is small enough that it is not going to impact the deficit very much either way.

Mr. McKessock: You never did get their rate down low enough after they were brought in.

Mr. Haggerty: I raised that question because I thought perhaps in your crystal ball there, estimating, you would come up with some figure there.

Interjection.

Mr. Haggerty: You should have had that when you introduced it into the bill, the numbers that you kind of estimate or forecast, and the revenue that will be generated. I am just looking at.

I think in the area I represent there is a number of lakefront property owners, and they are pretty well all Americans, who hire gardeners for six or seven months of the year, and they will have to be included in this now, I guess. I do not think they are even aware of it, but in a number of cases they do carry their own private insurance, and I think it sometimes provides good service to the employee, and if he is off sick or disabled, the insurance will cover the cost based upon medical findings again. That is one area I thought you should be taking a look at. Some of the other questions have been raised here that I thought would be of some interest here to open it up.

4:20 p.m.

~~The question comes to the Canada pension plan...~~

1620 follows

(Mr. Haggerty)

~~you should be taking a look at.~~

~~Some other questions have been raised here that I have some~~
~~interest in.~~ Take the Canada pension plan. Now that it is incorporated under the law of the statutes of Ontario under the Workers' compensation. I can only assume there will be some benefit to the workers' compensation board in that they will dovetail this into any particular claim, award or that that may include ones that are considered totally disabled. This would be part of a package plus their company pension plan too. There should be some benefit to the workers' compensation because you are piggybacking on Canada pension.

In other words when you make the final award, --I know they have done it in the past--where you are saying "You can apply for Canada pension. That should bring you in roughly \$300 a month." That is for an injured person who is considered disabled. Then there is the company pension plan that brings in \$600 a month and the workers' income could be \$18,000. So he is really removed from the job market because of these total disabilities. But then when you come up with an award of another \$260 there is quite a short change in there. I would hope we would be piggybacking on Canada pension. Your numbers must change quite a bit because if I interpret the act correctly, eventually you are going to have to come up with that 75 per cent total disability. There are a number of injured workers who will fit that category.

Mr. Neal: This is with regards to the pension supplements?

Mr. Haggerty: Well supplement, whatever it may be.

Mr. Neal: The basic permanent disability award itself will be unaffected by the CPP offset at all. The permanent disability, if the worker is rated as 60 per cent permanently disabled, that worker will first of all get that 60 per cent benefit and there is no change there. What you are discussing is the pension supplement where the circumstances of the individual worker are more serious than normal and we provide a supplement for a certain period of time.

Mr. Haggerty: You are coming into your particular field where as an actuary if you take a look at the Canada pension plan you do not get it back that easily. Sometimes it is harder for a person to get that than it is to get established workers' compensation claiming due to disability. When you consider the Canada pension plan, the act says you must be totally disabled and removed from the work place.

What I am saying is you have to take a look at this thing. When that person gets Canada pension then the board has to change its attitude and say yes he is considered totally disabled. He is permanently unemployable and forget about this supplement. He is going to have a loss of wage income.

Mr. Neal: It depends what caused the disability. Canada pension plan is compensating for disabilities that are or are not occupational related. Canada pension plan entitlement is independent of a cause of disability and the usual problem is the worker has several problems. They have heart attacks or back problems.

Mr. Haggerty: I am talking about the injury related to the accident in the first place under workers' compensation. It has been a practice of the board and your consultants will always address themselves in saying the worker has the option to go to Canada pension to get it. In other words they are saying the worker can be supplemented on this side here, but to get Canada pension based upon the worker's accident. We are not talking about some other organic problem. That may arise with an injured worker that is applying for Canada pension. Workers' compensation does not come into this. I am talking about an injured worker now.

You have to reconsider your position in this particular area and come up with some numbers. Not the supplement. You are going to have to say, "yes, total disablement. Mr. McDonald is shaking his head no and that is one of the problems down at the board. He misinterprets the intent of the Legislature, but that is the purpose of it. You want to piggyback onto the Canada pension program, but you do not want to pay full compensation by the poor, which I think is totally irresponsible of the Minister of Labour or whoever is responsible in this area.

Mr. McDonald: With respect Mr. Haggerty, you are saying that because CPP says the man is totally disabled, we have to say he is totally disabled. That is not correct sir and it is not in the new legislation.

Mr. Haggerty: I know that and that is what I am saying. We are piggybacking on this hopefully that the guy will go and get Canada pension. We say, "well here is \$300 that we do not have to go to find under the--

R-1625-1 follows



~~(Mr. ??McDonald)~~

~~and that is not correct, and that is not in the new legislation.~~

~~Mr. Haggerty: I know that, but that is what I am saying. You are piggy-backing on this hoping that the guy will go and get Canada pension. He will say, "Here is \$300 that we do not have to go out and find under the Worker's Compensation Act."~~

Interjection: Supplementary.

Mr. Haggerty: Or supplementary, or whatever it may be.

Mr. McDonald: The application for CPP under the existing act is a bar to a supplement. The new legislation removes that bar.

Mr. Haggerty: You have always used that in practice down there that every time a person goes in for a medical assessment, it goes before a consultant reviewing pensions officer and he will even take in the question of: "Does your spouse work? Is she employed?" That is all taken into consideration when you make the final analysis of the degree of disability and what he is entitled to.

Mr. McDonald: I disagree with you totally.

Mr. Haggerty: But that is what takes place.

Mr. Chairman: We are getting into the claims area, and I think perhaps when we are dealing with claims that might be an appropriate question to ask.

Mr. Haggerty: The matter was raised about the Canada pension plan and I think that is what it is going to be used for. The board is going to use that to piggy-back onto, saying, "Here is some measures that is going to give you some assistance" without really looking at the special award that should be given to the injured worker. There are many of them out there that had to go to Canada pension to even survive on a minimum income. I feel rather disappointed in the board's action or policy in this area.

As I said in my opening comments, it is related to the unfunded liability. The money just is not there and you are just stalling until you can find some measures there to resolve that area of unfunded liability. If you did not have that, I am sure there would be more money given to the injured workmen, but you have taken it out on the injured worker. It is hard to accept the board's policy and this is what we are here for, to review that.

Mr. Chairman: Primarily, at this stage of the game, we should be asking questions so that we can get answers back.

Mr. Haggerty: I got the question. It is not going to give the area of disablement that the person is entitled to based upon the injured worker and the injury that has happened.

Mr. McDonald: I can assure you that the amount of the unfunded liability has no bearing on the level of permanent disability granted to an individual worker.

Mr. Lupusella: There is no way to verify that.

Mr. Haggerty: That is right. I have to agree with you in that.

Mr. McDonald: Do you really believe that?

Interjections.

The committee adjourned at 4:28 p.m.

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STANDING COMMITTEE ON RESOURCES DEVELOPMENT
ANNUAL REPORT, WORKERS' COMPENSATION BOARD, 1983
WEDNESDAY, FEBRUARY 6, 1985
Morning sitting
Draft transcript

STANDING COMMITTEE ON RESOURCES DEVELOPMENT

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Yakabuski, P. J. (Renfrew South PC)

Substitutions:

Gordon, J. K. (Sudbury PC) for Mr. Villeneuve

Haggerty, R. (Erie L) for Mr. Reed

MacQuarrie, R. W. (Carleton East PC) for Mr. McNeil

McCaffrey, R. B. (Armourdale PC) for Mr. Havrot

McLean, A. K. (Simcoe East PC) for Mr. Watson

Also taking part:

Gillies, P. A., Parliamentary Assistant to the Minister of
Labour (Brantford PC)

Clerk: Arnott, D.

From the Workers' Compensation Board:

Alexander, Hon. L. M., Chairman

Cain, D., Associate Secretary

McDonald, J. F., Executive Director, Claims Services Division

Warrington, T. D., Vice-Chairman of Appeals

LEGISLATIVE ASSEMBLY OF ONTARIO
STANDING COMMITTEE ON RESOURCES DEVELOPMENT

Wednesday, February 6, 1985

The committee met at 10:11 a.m. in committee room 1.

ANNUAL REPORT, WORKERS' COMPENSATION BOARD, 1983
(continued)

Mr. Chairman: Members of the committee, we have a quorum, so we should start our session for today. When we left yesterday, Mr. Alexander had some responses to make to Mr. Haggerty's opening statement. We will begin at that point.

Hon. Mr. Alexander: Mr. Chairman, Mr. Haggerty did have some points to make. We covered the first one, which was a very interesting and very detailed look into, if you can put it that way, the overview of the unfunded. I guess that is at the side now.

With regard to the other thing that he wanted to talk about, I hope he has this case for us. The one case, I think, was where it took about a year to bring about a date for a hearing of the case maybe. I hope you will give us that privately because I would like to look at it. I know you have mentioned my name in terms of correspondence, but in that vein, we have Mr. Tom Warrington, the vice-chairman of appeals, who is responsible for the appeals adjudicator and the appeal board. Perhaps Mr. Haggerty would like to forward his questioning in this regard to Mr. Warrington at this time regarding the whole appeal setup.

Mr. Chairman: Probably the general nature, as opposed to this one specific claim.

Hon. Mr. Alexander: Heavens no, I did not mean the specific claims. I would not want to take the time of the committee. First, I do not think we would have the file; second, we would have to get the file in order to answer his question. He had some comments about the process, the setting of the appeal date and, as well, the hearing. I guess there was a delay. That is his concern with respect to this.

Mr. Haggerty: The latest correspondence I have from the board is that they moved it from May to February 22 or something like that.

Mr. Warrington: Mr. Chairman, maybe I can assist Mr. Haggerty. Mr. Haggerty was not aware of a letter that had been sent a few days ago. I believed he received it yesterday and has it now. It is true the hearing has been set for May, but we have informed him, or I am informing him now, that we can set that date earlier.

The problem of late hearings lies with the appeals

(Mr. Warrington)

adjudicator. We have instituted a couple of new policies in that we now have 8 a.m. hearings and 3 p.m. hearings so that there are openings in the next few weeks and the next month or so. We are trying to prioritize hearings and we are offering those that are in need these times.

28. Mr. Haggerty: You moved that up from May 14 to February

Mr. Warrington: Yes.

Mr. Haggerty: I thought when I got the letter this morning it was a quick response to my question.

Mr. Chairman: It is part of the service. Mr. Warrington, you said 8 a.m. hearings on this?

Mr. Warrington: Yes.

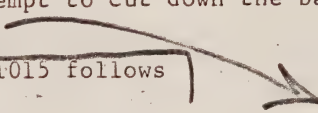
Mr. Chairman: And three in the afternoon?

Mr. Warrington: And 3 p.m., that is correct.

Mr. Chairman: Why the difference? Why not eight in the morning and eight in the afternoon?

Mr. Warrington: To attempt to cut down the backlog. We have a serious backlog and--

R-1015 follows



~~(Mr. Warrington)~~

~~We have a serious backlog.~~

Mr. McDonald: Excuse me, sir, he said eight hearings in the morning. You are talking about eight o'clock.

Mr. Warrington: I am sorry, 8 a.m.

Mr. Chairman: There are eight morning hearings?

Mr. Warrington: No, 8 a.m. We are beginning hearings at 8 a.m. rather than 9 a.m.

Mr. Chairman: I see. I am sorry, okay. I thought you were saying that you would hear eight in the morning.

Mr. Warrington: In other words, we are adding two hearings per day in an attempt to cut down the backlog.

Mr. Haggerty: So you are going to have quite a few overnight guests then for 8 a.m. hearings.

Mr. Warrington: I would suggest that is a possibility.

Mr. Chairman: How many hearings are there in a day?

Mr. Warrington: As a matter of fact, we anticipate breaking all records this week, because of what I have said and additional staff that we are using, part-time staff, retirees that we have brought back to handle mostly out-of-town hearings. We have scheduled a total of 143 at the appeals adjudicator level and another 23 at the appeal board. It is around 160. No, I am sorry, it is 126 at the appeals adjudicator level, which is more than we have ever had before.

Mr. Lupusella: How do you justify the increase? More rejections?

Mr. Warrington: That is a difficult question to answer, Mr. Lupusella. Until the third quarter of 1983, we were at our normal level of setting appeals adjudicator and appeal board hearings. In the last quarter of 1983 we noticed a trend of more appeals. It was difficult to understand because we were coming out of a recession, as you know, but investigation told us that a lot of the problems were with reopened claims, particularly in the Sudbury and London areas. We anticipated that would level off. At that time, we hired retired appeals adjudicators who were willing to come back and work part-time, particularly in Sudbury and the London area. We increased our numbers in the fields.

That increase did not slow down; it just kept on going. Early in 1984, we hired another appeals adjudicator and in the latter part of 1984 we hired two more. We now have 16 appeals adjudicators, plus the part-time people working.

Mr. Laughren: Is Bill Kerr one of them?

Mr. Warrington: No. Does that answer your question, Mr. Lupusella?

Mr. Lupusella: I am going to get into the appeals system when I make my own presentation.

Mr. Laughren: Rehabilitation, too.

Mr. Haggerty: We are talking about the appeal system set up now. Under the new act, as I understand it, some of your senior appeals staff--I am thinking about the third level now, before the board level--

Mr. Warrington: Board level, yes, the commissioners.

Mr. Haggerty: The commissioners--they have moved from East Bloor to West Bloor.

Mr. Warrington: That is correct, in preparation for Bill 101.

Mr. Haggerty: Why the separation from that? Is that necessary at this particular time? You have had the facilities in the one building; now you have to go across to the other side. Are there not difficulties at the present time with the elevators in that one building, without going over and tackling the elevators on the other side?

Mr. Warrington: Actually, the elevators in 2 Bloor West are much better than those in 2 Bloor East. Aside from that, as you know, the Weiler report is now over four years old and there has been a tremendous amount of debate during those four years. We were not reasonably sure until about the last year that there actually was going to be an external appeal board. Knowing that was to take place, we thought at that time it would be January 1, 1985. That has now been pushed to what we think will be July 1, 1985. In preparation, because it is an independent appeals tribunal, we felt it was necessary that the appeals tribunal be as close to, as adjacent as possible to the Workers' Compensation Board but must show the independence and be away from the operating areas of 2 Bloor East.

10:20 a.m.

At that point the logical place was 2 Bloor West. We had to be close by because of file flow. File flow is a very serious problem. We checked with the owners of 2 Bloor West and found that the only space they had was that being vacated by the executive of Bell Canada for their eastern division on the 34th floor. If we did not take that space within a couple of months, there was nothing available till the middle of 1986. That was an impossible situation for us, plus the fact that the rent was lower--

R-1020 follows

(Mr. Warrington)

It is on the 34th floor, as I am sure you are aware. If we did not take that space within a couple of months, then there was nothing available until the middle of 1986. That was an impossible situation for us, plus the fact the rent was lower. So, we negotiated a deal with the owners and, as a result, moved over in preparation for Bill 101 implementation, plus the fact that we were very limited in space at 2 Bloor Street East.

Mr. Haggerty: You are saying that the rent is lower there than this locked in--

Mr. Warrington: Yes.

Mr. Haggerty: I should go back to that original deal of the Workers' Compensation Board. Are you still locked in with high rental costs?

Mr. Warrington: I cannot get into detail on this, but my understanding is that the rent we pay is extremely good, much lower than other corresponding tenants in that building and in the adjacent areas.

Mr. Haggerty: You should move into that building then. Look at the savings that you could have for the board. You could pass that on to the injured workers.

Mr. Warrington: There is no way. There is just not space available, plus the fact that we must use a total of about 22 or 23 floors, at least, at 2 Bloor Street East.

Mr. Chairman: I guess you are finished, Mr. Haggerty.

Mr. Haggerty: Yes.

Mr. Chairman: Mr. Alexander, are there any other--

Hon. Mr. Alexander: I do not think there was anything else that I can recall, Mr. Chairman. Have you covered your concerns, at this moment, Mr. Haggerty?

Mr. Haggerty: At this moment, yes.

Mr. Chairman: At this moment, in relation to your opening statement.

Mr. Haggerty: Yes. I am waiting for Tony to get on with his.

Mr. Lupusella: I have a terrible cold still, but I am pleased to make my contribution and criticism to the administration of the Workers' Compensation Board, and in particular in relation to the annual report of 1983.

As I was reading this annual report, it was very interesting to note on the blank page of the report there are just five lines which read:

(Mr. Lupusella)


"The Workers' Compensation Board Hospital Rehabilitation Centre which, in 1983, admitted more than 11,000 injured workers from across Ontario, celebrated 25 years in its suburban Toronto location."

Last year, I think Mr. Chairman and members of this committee were quite critical about the report which is presented to the Legislature. We noticed that the report is a little bit poor in relation to information and statistical data given to the members of the Legislature. I think that if the board responded, for example, on the board's hospital and rehabilitation centre--we now know the total number of people getting into the centre--we would know how many people stayed in the centre, how many people have been released from the centre and went back to work, and how many people requested full compensation. The general practice of the board is that when an injured worker--and I am talking in general terms--is released by the rehabilitation hospital, he or she is released on the basis that he or she can perform a light job.

We do not have any of this statistical data in this report, even though I notice an improvement, at least in relation to statistical data related to claims, for example, claims response time in 1981 and 1983, and claims instituted on doctors' first report. I realize that there was a slight improvement in comparison to the 1982 report. Members of this Legislature were complaining about lack of statistical data and now I notice that there is some information about complicated claims, lost-time claims by part of body injured and the changes in the accident fund investment portfolio.

The board has the expertise, capability, manpower, skills and trades to produce a good report in order to inform the public and members of this committee about the overall situation--

R-1025 follows



(Mr. Lupusella)

has the expertise, capability, manpower, skills and trades to produce a good report in order to inform the public and members of this committee about the overall situation of injured workers across Ontario. Of course we know, in general terms, the operation of certain departments within the board, but if we want to realize and admit the state and wellbeing of injured workers and give positive and concrete proposals, we need this type of statistical data to assess the operation of the board.

Hon. Mr. Alexander: Mr. Lupusella, your point is well taken. You know that an annual report does not really give complete operating details. It is more or less of an overview. It is a question of how much you can put in an annual report. I know you have seen a number of them from various companies, and so forth.

What is happening here is the annual report is before you at this particular time and questions can be asked and answers given with respect to specific details. But I think your point is well taken. We will go back and look at what we can do with respect to giving further statistical information as it relates to the several questions that you have raised. I would want the report to be as good as humanly possible and I appreciate you stating that we have some marked improvements there. I have seen earlier reports and they left something to be desired. As I have said earlier, we are here to get your counsel or to get your expertise and if you find that there is not enough statistical data--and you mentioned the hospital, in particular--we will see if we can address your concerns in that regard, sir.

Mr. Lupusella: Okay. Thank you. Mr. Chairman, as you noticed, I have been trying to be fair on my critics--

Hon. Mr. Alexander: Oh, you always are, sir.

Mr. Chairman: I was just saying to the parliamentary assistant, "Now comes the big but." However, having said that, please continue.

Mr. Lupusella: The point which was raised last year about lack of statistical data was taken into consideration to a certain extent.

Hon. Mr. Alexander: That is right.

Mr. Lupusella: We noticed an improvement. It is as simple as that. In particular, you are getting into the area of appeals, for example. The immediate answer is why there is an increase. I do not have any statistical data from which I can formulate my own judgement and find out why the increase in the appeal system took place in 1983, 1982, or in any other year. I have my own assumption as to why there was an increase in volume of the appeals in 1983, which eventually might be dismissed because I do not have any statistical data to counteract the explanation given by the officials of your board.

Hon. Mr. Alexander: I understand, sir.

Mr. Lupusella: As I stated before, my own interpretation of the increase in the number of appeals--unless I am going to see a breakdown on the statistical data next year in the 1984 annual report--is a lot of people are appealing the degree of their pension. They are not satisfied with the assessment given by the board and automatically they turn to the appeal system to increase the degree of their disability. I know that the majority of the people are completely dissatisfied about the degree and level of permanent disability awards given by the board and, of course, the remedy they have in their own hands is the appeal system.

With respect, you mentioned that the number of appeals is related to reopen claims. It can be one or another reason, but you can include my own explanation, as well, that people are not pleased with the amount of money which they are receiving based on the level of their permanent disability award and they turn to the appeal system.

Mr. Warrington: Mr. Lupusella, would you prefer that I respond to that now? I have those figures.

Mr. Lupusella: All right. It will make our life easier if all of these figures are incorporated in the annual report.

Mr. Warrington: Of 1984? Did you want it in the 1984 report? Is that what I understood you to say?

Mr. Lupusella: No. You can give me your own figures for 1983 about the number of appeals and why they are appealing. Do you have this type of information?

Mr. Warrington: Yes, I do.

10:30 a.m.

Mr. Lupusella: You can answer--

R-1030 follows

Mr. Lupusella: No, no. You can give me your own figures for 1983 about the number of appeals and why they are appealing. Do you have this kind of information?

Mr. Warrington: All right. Do you want it now, sir?

Mr. Lupusella: I can continue with my presentation in the meantime.

Mr. Chairman: He has it now. Do you want it now or would you prefer to put all your concerns on the table at one time?

Mr. Lupusella: Are you going to reply or are you going to give me the statistical data?

Mr. Warrington: I can, sir. At the appeal board level--

Mr. Lupusella: You are persistent, okay.

Mr. Warrington: At the appeal board level in--

Mr. Haggerty: Mr. Chairman, I just want to draw to your attention now that if you open the door to questions and answers I may want to get into this.

Mr. Lupusella: Okay.

Mr. Chairman: It is a good point. Probably we had better stick to what we are accustomed to.

Mr. Laughren: We have to leave time for the committee to visit all the dangerous work sites.

Hon. Mr. Alexander: Am I invited too?

Mr. Laughren: Especially you. You are leading the way.

Hon. Mr. Alexander: I used to work in a steel company in the past. It would be good to go back and see how it has improved.

Mr. Laughren: Yes.

Mr. Lupusella: It is the first point about the annual report. Mr. Chairman, if I may, before I start my opening statement I would like to go back a little bit to some of the points which I raised last year to find out what kind of action has been taken about particular concerns which have been raised by my colleague, Mr. Laughren, and by myself in relation to issues affecting injured workers across Ontario.

Last year you mentioned that you were proud to indicate that the organization of the claims services division's progress in 1982 was designed to speed up the claims adjudication process thereby announcing the delivery of our services to injured workers. You stressed this particular concept in your opening statement this year as well.

(Mr. Lupusella)

Going back into the content of the annual report I did not notice any particular improvement in this area. I do not want to get into any particular specifics but I think I have to counteract the statistical data provided by your annual report.

On page 9 of the 1983 annual report you mentioned that the claims response times in 1981 and 1983 was 95.3 per cent. I want to be corrected if I am wrong, but that is the way I interpret it in this graphic table here.

Hon. Mr. Alexander: It is higher in 1982.

Mr. Lupusella: In the 95.3 per cent, the claim was instituted within three days. Am I correct?

Hon. Mr. Alexander: That is in 1981. You will see there is an improvement in 1982. You will see there is an improvement in 1983, sir.

Mr. Lupusella: I do not have any problem in the institution of the claims.

Hon. Mr. Alexander: That is the one that you are looking at, sir.


Mr. Lupusella: The problem I have is the number of days in which the claims have been paid. I think you have a percentage underneath the number, the percentage of claims paid within four or five days.

Hon. Mr. Alexander: Three days, four days and five days.

Mr. Lupusella: I have to disagree with you about that because I think there is a problem. I realize that the institution of the claim is really passed most of the time when an injury has taken place. In three, four or even seven days the claim number is received by the injured worker. The problem that I have is the payment which the injured worker receives. In my own estimates I calculate that it is in the range of three or four weeks.

Hon. Mr. Alexander: Sir, on that point you raised we have Mr. John McDonald here who is the executive director of claims. I would certainly want to point out to you, sir, that we are not trying to enhance our image by bringing about a greater picture. I think this report has been presented with integrity and honesty. All I can say is that the charts and figures speak--

(Tape R-1035 follows)



(Hon. Mr. Alexander)

...enhance our image by bringing about a greater picture. I think that this report has been presented with integrity and honesty. All I can say is that the charts and the figures speak for themselves. Mr. McDonald will be able to assist us in that.

Mr. Lupusella: I am giving you credit that you deserve. I do not have any problem about the institution of the claim number. I give you the credit of the three, four or five days, even a week.

Hon. Mr. Alexander: Let us see what Mr. McDonald has to say.

Mr. Lupusella: But the payment has nothing to do with the five days, even though you are claiming that the payments are made.

Hon. Mr. Alexander: If you look at the chart we say that in 1981, 82 and 83 you can see at the very top that 95.3 per cent in 1981 were paid within three days. In 1982 that figure jumped up so there has been progress, it is 95.7 per cent. In 1983 there is still even further progress of 96.1 per cent. You question that.

Mr. Lupusella: I am questioning it because I am giving you the injured workers perspective, which is not my perspective just for the sake of criticism.

Hon. Mr. Alexander: We appreciate that, sir. Mr. McDonald, will you try and assist us in this regard, sir?

Mr. McDonald: I made a note of the question, sir. I will respond when Mr. Lupusella has completed his statement.

Hon. Mr. Alexander: All right.

Mr. Lupusella: Then we get into the area of claims instituted on a doctor's first report. This means that maybe there is a delay coming from the employer's side; the injured worker is going to see the family doctor and, therefore, the board is notified of the injured worker's accident by the family physician.

We are also getting here that 44.4 per cent of injured workers, which claims have been instituted on the family doctor's first report, the injured worker is paid in 10 days. Am I interpreting that correctly?

Hon. Mr. Alexander: Exactly, sir. You see the dramatic increase in terms of 1981 where there was only 44.4 per cent. The improvement, I would respectfully state, sir, was dramatic because we are now up to 92.9 per cent in 1983. So you can see that that speaks for itself even if you do raise some concern about whether it is truthful or not according to your constituents.

Mr. Lupusella: It must reflect the real life of injured

(Mr. Lupusella)

workers which are involved in this type of a situation where the family physician is notifying the board about the accident. You have 94.4 per cent of injured workers which are paid in 30 days.

Hon. Mr. Alexander: That is also an increase from 1981 in terms of immediate service.

Mr. Lupusella: If you follow the graphics on this page you might be satisfied about the improvement in the progress which has been made.

Hon. Mr. Alexander: We are never satisfied, sir. We always want to do better.

Mr. Lupusella: Of course. That is the main goal. But again maybe I am speaking on behalf of injured workers where a payment is coming later than 30 days. You have a 99.4 per cent of injured workers which are paid up in 30 days.

If you analyse this graphic 99.4 per cent of injured workers who fall into this particular category where their accident is reported by their doctor's first report it might end up to be a complicated case.

Hon. Mr. Alexander: That is a point well taken, sir.

Mr. Lupusella: Because in most of the cases maybe the employer refuses to send the notice of the accident report. The majority of the injured workers falling into this category--I am talking about the 99.4 per cent--might get into the graphic or complicated cases or claims because the board, to satisfy itself, is going to initiate an investigation. You would not be talking about the 30 days anymore.


Mr. McDonald: That is the next chart.

Hon. Mr. Alexander: We are down to the complicated cases now.

10:40 a.m.

Mr. Lupusella: Then I have another criticism about the complicated--

(Tape R-1040 follows)



... investigation, and you would not be talking about 30 days anymore--

Hon. Mr. Alexander: We are down to the complicated claims now.

Mr. Lupusella: When I have another criticism about the complicated cases.

I am trying to tell you that these graphics do not reflect, in general, what is going on among injured workers. That is what I am trying to point out.

Hon. Mr. Alexander: I hope it does, but we will hear Mr. Lupusella's ideas.

Mr. Lupusella: I will give you my own reasons. You might react to my reasons, my different explanations. In the area of complicated claims, you are talking about 35.1 of injured workers paid in 10 days; 62.2 per cent were paid in 20 days, and 76.9 up to 24.3 per cent were paid in 30 days.

Hon. Mr. Alexander: A marked improvement.

Mr. Lupusella: It is a marked improvement, but I do not see any difference on the improvement between the claims instituted on ?? first report and the complicated claims because the previous figures might all fall into the complicated claims category. First, it might be because the investigation would take place.

The latest example which I have--again, I will not mention claim numbers nor the names of people at the board--is about an accident which was reported by the injured worker to the family physician on October 16, 1984. A medical report has been sent by the family physician to the board. In four or five days the claimant got the claim number, and as of January 22, 1985, when I got involved in this case, the injured worker had never heard from the board.

Hon. Mr. Alexander: I can say that you can--

Mr. Lupusella: Again, it is not an isolated case. I can give you names and everything, but it will not solve the problem. If I give you the claim number and the name of this injured worker, and you will take action to speed up the process of the claim, this will not help the situation of so many injured workers affected by the same process.

The funniest story of all is that when I got involved with the board's officials, and I reported this type of delay, they said, "Okay, we will make sure the file will come to our desk, and we will see what the problem is." They admitted the delay, the recent delay, and what they did was set up an investigation at the time when those officials had an opportunity to look at the file

(Mr. Lupusella)

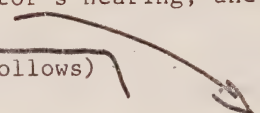
and maybe in the file there was a recommendation that an investigation was supposed to take place--January 23, 1985 from October 16, 1984.

The investigation, I guess, has been carried out. I received notification from the claimant that the investigator did not get in touch with the claimant yet. I am sure that before the investigator will get in touch with the claimant, he has to go and talk to the employer, to the witnesses and everything. He will be the last person to be contacted by the investigator, and then the recollection of all medical reports from doctors, specialists, and so on.

The end of the investigation is usually after one month. Then the file has to go to the claims adjudicator for a decision to be rendered by the claims adjudicator. If the opinion of the claims adjudicator is against the injured worker, the issue has to go to the claims review branch for a final deliberation at the lower level of the appeal system.

We are talking about four or five months to give an opportunity to the injured worker to launch an appeal before the claims review branch, and if that branch turns down the claim for payment, then one get into the situation of an appeal adjudicator's hearing, and we are talking about another four months--

(R1045 follows)



...branch turns down the claim for payment, then you get into the situation of an appeal adjudicator's hearing, and we are talking about another four months. Until the decision will be rendered, we are talking about another seven months. It is almost one year for a complicated case like this to get a simply reply from the board, and this man, of course, does not have any option to apply for welfare or family benefits or unemployment insurance. It is as simple as that. The delays in the decision-making process concerning injured workers is real; it is vegetating very well. The issue of delay has been raised many times in other years by members of this committee. You are talking about an improvement. I know you are sincere, but the problems are there, and we want action on that.

Injured workers are driven to frustration. One might end up saying: "I do not want to deal with the board. I am receiving unemployment insurance, family benefits or welfare. When I feel better, I will go back to work." If this is the intent of the board, action is needed to remedy this serious problem affecting the socio-economic wellbeing of the injured worker.

We raise this issue every year. I am going to present to you and officials of the board all the speeches which we made on a yearly basis before the board appeared before the committee. I am getting sick and tired of raising the same issues all over again. With the greatest respect, I concur with the criticism raised by my friend from the Liberal Party. The problem is there. It is not an isolated case. It is not.

I will give you another example of how branches of the board are operating. This gets to the medical branch which is the simplest one to deal with. They deal with the payments for medicine for injured workers. I know they are providing a good service to the pharmacist. When an injured worker is going to visit the family physician, and there is a prescription for pills and medicine and so on--

Interjection: That is pharmacist, not farmer.

Mr. Lupusella: No, not farmer.

No one of the pharmacists got in touch with my office saying they were completed frustrated because the board was not paying them the bills. So I am sure it is a simple process to analyse the content of the prescription and pay immediately. But when you get into the issue of allowances, which are paid by the same department, with different opinions expressed by the pension department as to whether or not the injured worker was wearing a brace or something else, then I notice another delay..

The latest case brought to my attention was about an injured worker, a Portuguese, who came to my office and showed me a letter from the medical department of the board, signed by Mrs. So and So.

son

(Mr. Lupusella)

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The letter was dated May 16, 1984. The content of the letter was: "We received your letter. You will get an immediate reply as soon as possible." The message was clear, short, signed and yet two weeks ago the man was still waiting.

10:50 a.m.

I was in my constituency office. I called the medical branch. First, you do not find the people who sign the letters. They are out or at meetings or they will be back in two weeks' time which means that maybe they are on vacation. I do not know. Then maybe you talk to someone who says, "I do not know anything about it." What is his job description? Is it just to answer this type of letter, to acknowledge the injured worker's letter and send out a letter saying that an immediate reply will be sent to the worker as soon as possible. Nothing else about the operation of that department. If you are going to elaborate about issues about other people--

(R1050 follows)



(Mr. Lupusella)

~~an immediate reply is going to be sent out to the injured worker as soon as possible, not a notice about the operation of that department and, if you are going to elaborate on the issues about other people who are supposed to take decisions on that claim, they know nothing. Their job classification is just to answer the phone and give an immediate answer to any letter getting into this particular department.~~

I was finally able--again, I am not going in to speak to high officials of the board because I do not need special treatment, I do not, I want to make sure that when an injured worker is applying for any kind of a benefit before the board they will get such benefit. They do not need a politician. I do not need to be bothered by injured workers. I want their rights to be delivered quickly, efficiently and as soon as possible, with no political interference.

I have nothing to gain. If a client or injured worker or somebody else comes to my office and brings to my attention a problem, I do not have to meet the person to make sure the service is delivered.

Hon. Mr. Alexander: Rest assured, sir, I want what you want. We are trying our best to move in that direction.

Mr. Lupusella: They do not do me a favour, actually it is extra work for me. I do not think it is fair for me and I do not think it is fair for injured workers because they have the right to receive this type of benefit. They are not claiming something which is part of a charitable institution where the issue has to be analyzed and they have to be interviewed. "I feel good so I am going to give you something."

No, the Workers' Compensation Act is obscure but is in some ways clear. You have a right or you do not have a right. If you do not have a right, you get a reply from the board and you have ways to appeal their decision.

There is no justification that an injured worker has to fight even to get an answer from the board. I think that the delay issue is a real issue which has been persistent with the board, maybe since it was born. Something has gone wrong in each department, I do not know what the problem is. I do not know if I am the black fly within the board's people, I really do not know.

Hon. Mr. Alexander: Never think that.

Mr. Lupusella: I really do not know. I get the impression--

Mr. Gillies: Not you; maybe something else, but not a black fly.

Hon. Mr. Alexander: We shall not pursue this any further.

Mr. Lupusella: You will notice that my comment had no particular reference to something that was interpreted by others.

Hon. Mr. Alexander: Oh, no, sir; carry on in your usual articulate style. Do not worry about that little intervention.

Mr. Lupusella: Let me replace the word "black" with the substitute "special" fly.

Hon. Mr. Alexander: Do not be so sensitive because I am not.

Mr. Lupusella: You are making me sensitive.

Hon. Mr. Alexander: Do not be sensitive, do not listen to them. Carry on. I want to hear what you have to say. I know what you are saying, I am not making light of it.

Mr. Lupusella: The issue is a real issue. May 16, 1984, I was able to trace two weeks ago the person who was supposed to deliver the decision on the clothing allowance issue who, of course, was so apologetic. How is it possible? You are talking about May 16, 1984 and we are close to May 1985. One year this letter has been sitting on your desk and what is happening? "It is a little bit complicated."

I do not see any complication on this claim. This injured worker is receiving two pension and the injured person referred to the two claim numbers in the letter. So either this injured worker has a right to clothing allowance, is entitled to clothing allowance or is not.

"Yes, but as you know, there is a new claim number which was instituted recently and I think now we are in the process of reviewing the content of the new claim number before a decision will be rendered."

That is why I do not understand the mentality of the people down there...

(Tape R-1055 follows)

(Mr. Lupusella)

That is why I do not understand the mentality of the people down there; I am sorry, I do not, if they are experts in the work they are doing. First of all, a clothing allowance is paid to an injured worker when a permanent disability award has been granted to the injured worker if he is wearing a brace.

The new claim number was a new claim member, the injured worker was paid full compensation. There was no indication that the injured worker would be called for a pension assessment in order that the pension would be given so I really do not understand this type of mentality and the explanation. I really do not know what is going on because I think, with the two claim numbers provided by the injured worker from which he is receiving a permanent disability award, the decision could have been made as to whether or not he was entitled to a clothing allowance, period.

This goes on and goes on. You might say: "Give me the claim numbers," and so on, "She is taking action on this claim. I need to go to higher board officials."

I want to know how the different departments are operating because, instead of me, it could be the injured worker himself or herself placing the phone call. I do not need, as I stated, special treatment. I think that the man is already suffering from May 16.

Hon. Mr. Alexander: I do not want to detract from your excellent presentation, but I wish you would not use that word, "special" treatment. You sort of put me in a bind. You are indicating that MPPs get special treatment. I do not want anybody to think that, because you are an MPP, you are getting special treatment. I think all people who approach the board with respect to their concerns and issues in which they are involved should get the best of treatment, regardless of whether you are an injured worker, an injured worker's representative, an MP or an MPP.

So, with respect, sir, I wish you would not use the word "special".

Mr. Lupusella: I will not use this word again because you are quite sensitive, as I became sensitive on using--

Hon. Mr. Alexander: No, I just want to clear the air. I would not want to think that the chairman, a former MP and a Minister of Labour was giving special treatment to an MPP; I would say he gives treatment.

Mr. Lupusella: This is another innuendo then. My mind was quite far away from thinking that.

Mr. Haggerty: I could write a letter to myself if I know what the answer is.

Mr. Lupusella: By the way, you will be receiving a few letters about the delay issue because I am getting sick and tired--

Mr. Gillies: Now you are asking for special treatment.

Mr. Lupusella: There is a limit of tolerance. My technological background taught me that the material has resistance to a certain extent and after that there is a break point. The reason I am taking this particular action is that I need the action to resolve the general issue of delay, period.

Hon. Mr. Alexander: That is right, and that is the bottom line.

Mr. Lupusella: That is it. I think that people employed in the different departments of the board are even ignoring, not one memo, several memos coming from counselling specialists. They spend their time to review the issue, to build the concern of the people calling the counselling specialists, sending different memos and the memos being ignored.

It was not my memo. They were memos written by counselling specialists about issues which were brought to their attention and the delay persisted. We are not talking about a delay of a full week; we are talking about delays of a month, even if the people were notified about the issue by counselling specialists employed by the board, they are not employed by my office, different memos.

Again, you might have good intentions but maybe you do not get this type of criticism from them. I really do not know.

11 a.m.

Hon. Mr. Alexander: Yes, I do. I get criticism with respect to delay and I will let you know this, that when I hear about delays that are unwarranted I take a pretty dim view of them and I make sure that those who are responsible, whether it is the...

(Tape R-1100 follows)



...I get criticism with respect to the delay. I will let you know that when I hear about delays that are unwarranted, I take a pretty dim view of them and make sure that those who are responsible, whether it is the immediate superior or a subordinate that they know what I think about delays which are unwarranted. I am with you on that.

As I said--here again, I do not want to detract from your statement--that there has been improvement. I know it is not to your expectation but please give us a little credit, and I think you have.

Mr. Lupusella: I am giving you the credit that you must be given. I have been trying to be fair.

Hon. Mr. Alexander: That is true, no question about it.

Mr. Lupusella: I am not trying to exaggerate or giving an extra dimension to a problem which is persistent.

Hon. Mr. Alexander: No question about it.

Mr. Lupusella: The other thing which you have to realize, with respect, is that every year we are raising this issue. I have to give you credit about the 10 per cent issue.

Hon. Mr. Alexander: But every year we are getting better.

Mr. Lupusella: Do you remember the 10 per cent issue last year? People receiving 10 per cent disability awards, some of which complained to me that they were not receiving supplement pension. Do you remember?

Hon. Mr. Alexander: Vaguely, sir.

Mr. Lupusella: We make the big pitch about that last year.

Interjection.

Mr. Lupusella: The credit is that now some people are receiving the supplement pension. So I am not trying to discount or criticize you unfairly or the operation of the board. But we made the pitch last year in a very strong way and maybe you got the message after so many years of criticism on the issue.

Hon. Mr. Alexander: We did. We are getting your message today as well, sir.

Mr. Lupusella: I am not pleased about the length of time which people are receiving the supplement pension with the 10 per cent disability award but at least now they are receiving the supplement pension. Three months time, four months time but at least there is a sign of goodwill that the board maybe is changing direction or policy.

(Mr. Lupusella)

Before they were implementing the policy in the way which I interpreted last year. The cost of the disability award was too low, no supplement pension was given to injured workers, now wherever I go--and I am not talking about my riding per se--if I am met by injured workers, the first question is: "What kind of benefits are you receiving from the board?" "Oh, I am on pension." I say: "How much disability pension?" "Ten per cent." "Are you looking for a job?" "Yes." "Are you receiving a supplement pension?" "Yes."

At least there is some indication that maybe the policy of the board has been reversed a little bit or interpreted differently. The length of time is another story and I am going to get into that. But at least there is a sign of goodwill after strong criticism which was raised last year by myself, Floyd and other members.

I have to congratulate you on the action which has been taken. You have to give me the benefit of the doubt about these type of problems because they are real, they exist and if you do not place any concern on them, they will get out of proportion. I have been talking about the service of injured workers and the delivery of services to injured workers. With respect I have to counterreact to the figures provided by the annual report of 1983 because there is a serious problem affecting injured workers in that respect.

Maybe in time it may be 20 per cent, 25 per cent of injured workers. I cannot give you the exact figure. You must have the figures there. I disagree with the figures. You must have the analysis of figures of how long people are paid by the board when a claim has been instituted. I do not have these figures. I can bring you cases to your attention to demonstrate that I disagree with the figures provided by the 1983 report.

Last year you were talking about delivery of services to injured workers and the payments. I think the problem is still there. Last year your officials and you, in your opening remarks you were mentioning the replacement of the existing centrex system with the state of the art XL-1 electronics PBX system for the entire head office...

R1105 follows

...PBX system for the entire head office. This type of replacement has been made again with the scope and goal to deliver services to injured workers in a positive way.

Again, by doing my own research there are departments in which you can easily go through the system without any problem but there are other departments in which you have to wait until an operator is becoming available. You are not talking about one minute time. I am talking about my own experience.

Instead of going to top officials to bring my concerns to them, I went down to find out how the system works. I noticed deficiencies. That people are placed on hold and the time framework is too long. The pension department was the worst to go through. I do not know where people are going in the pension department.

I have been trying to contact an individual from the pension department at least for two weeks. He is either at a meeting, he is not at his desk--two weeks and I still did not talk to him. I called last Friday. "Well, he is gone for today. He will be back on Monday." When you call on Monday, he is not at his desk.

Hon. Mr. Alexander: I do not like that, sir.

Mr. Lupusella: Do you have regular meetings during work hours in the department or what? I really do not know.

Mr. McDonald: Yes, that can occur, sir.

Mr. Lupusella: How many meetings every week?

Mr. McDonald: It depends on where you are located, what your particular function is but people can go to meetings on a weekly basis. Yes, sir.

Mr. Lupusella: What kind of meetings? Give me an example.

Mr. McDonald: I have a meeting every Monday morning with all my directors.

Mr. Lupusella: That is different.

Mr. McDonald: No, sir. The information that is communicated to my directors have to be distributed on to the staff. You do that through meetings, sir.

Mr. Lupusella: I think you have to reorganize this type of system. If I am working in a particular department to deliver a specific service, I must be there to be accountable to my work.

Mr. McDonald: No question.

Mr. Lupusella: And if you establish this type of system which is an electronic PBX system to make sure that injured workers across the province have better access to the service delivered by the boards, I am expecting better organization.

Mr. McDonald: If the pension's adjudicator is--

Mr. Lupusella: Of the kind you are just mentioning. You can have meetings but I think you can isolate the meetings from the kind of work which they are supposed to deliver.

Mr. McDonald: If the pension's adjudicator is interviewing an injured worker, Mr. Lupusella, would you ask me to interrupt him so that you can talk to him?

Mr. Lupusella: Are these the kind of meetings which you are talking about?

Mr. McDonald: Quite often on a daily basis--

Mr. Lupusella: You are talking about interviews. An interview is an interview, with respect.

Mr. McDonald: Do you want the answer, Mr. Lupusella?

Mr. Lupusella: I am talking about a meeting, there is a difference.

Mr. McDonald: That is correct, sir, there is a difference.

Mr. Lupusella: Where do they go: for interviews or for meetings?

Mr. McDonald: Both.

Mr. Lupusella: Both. Okay, so there is another dimension now. They are in meetings and in interviews. I can understand the interviews, I still do not understand the meetings yet. What kind of meetings do you have?

Mr. McDonald: Mr. Lupusella, if you have a complaint about the telephone system, we like to make sure that the adjudicators respond to your telephone calls. You bring a complaint to me--

Mr. Lupusella: I do not bring the complaint to you. If I am an injured worker, I do not come to you.

Mr. Chairman: Mr. Lupusella, you asked the question, I think it is fair to get an answer.

Mr. Lupusella: I hate this kind of approach, Mr. Chairman.

Mr. Chairman: No, you have asked a question. You are putting the gentleman on the spot and Mr. McDonald is trying to answer to respond to the question.

Mr. Lupusella: Okay, my simple question is: What kind of meetings do you have which differ from interviews because I know what kind of interviews--

11:10 a.m.

Hon. Mr. Alexander: Mr. Lupusella, I understand your concerns here but surely you must appreciate the fact that a board with the number of people that we have involved in trying to administer the act calls for meetings every day, every month. We have people coming in from our area offices. I go to meetings; my executive assistant, Louisa.

R1110 follows



(Hon. Mr. Alexander)

~~we have involved in trying to administer the act calls for~~
~~meetings every day, every month. We have people coming in from our~~
~~area offices. I go to meetings. My executive assistant, Louisa~~
~~Jacometi??, goes to meetings. It is an ongoing process to see that~~
~~everybody at the board knows what is going on and what your~~
~~colleagues are doing. Surely you are not saying that we should not~~
~~have meetings. I know you are not saying that, but I think your~~
~~bottom line is--~~

Mr. Lupusella: I have my own reservations about this type of meetings; that is why I want to know what kind of meetings.

Hon. Mr. Alexander: I have given you some indication about what I think the problem is.

Mr. Lupusella: I think that you have meetings.

Hon. Mr. Alexander: Yes.

Mr. Lupusella: Yes, I can understand that.

Hon. Mr. Alexander: They are all information meetings, to bring the staff at the board up to date with respect to what executive directors have passed in terms of new resolutions, new policies, bringing one another up to date. I think the bottom line is, sir--and I agree with you--I resent hearing that after two weeks you are trying to get somebody and you cannot get them. That is the bottom line about this whole thing, him or her. That is the bottom line.

Mr. Lupusella: Right.

Hon. Mr. Alexander: I will tell you right now that I have no hesitation or equivocation in telling you that is not the kind of service that you are entitled to, the injured worker, the employer, the appealing agency.

Mr. Lupusella: It is contrary to the principle of your statement, to improve the system and to deliver better service to the injured worker.

Hon. Mr. Alexander: You have indicated there has been improvement. I will not use the word "marked" improvement because that would be taking advantage of you, but I think there has been marked improvement. The bottom line is that if anyone at that board evades you for any reason whatsoever for two weeks, that is wrong. That is totally wrong and it is totally unacceptable by me. My feelings in that regard have been passed on to my colleagues at the board to indicate to them that I want fast, efficient, effective service.

Mr. Lupusella: That is the main goal. That is why you are changing the system.

Hon. Mr. Alexander: That is my philosophy. Hopefully, I think it has rubbed off on a number of the divisions and a number

is

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(Hon. Mr. Alexander)

of my colleagues. You are right. For you to sit back and wait for two weeks--I will not even ask whether you left your number because I am sure that you did. The fact is, it is too long. You have made your point very dramatically.

Mr. Lupusella: I can understand the difference between interviews from the pension department and meetings. I know the difference. And I know when an injured worker is going for a pension assessment, he might have interviews with injured workers, I do not know. There is no doubt about it; it is part of the job classification.

Hon. Mr. Alexander: But the bottom line is, sir, someone should have got back to you.

Mr. Lupusella: I do not understand the issue of meetings. I have reservations to accept the principle of meetings when my job there is to deliver service.

Hon. Mr. Alexander: That is right.

Mr. Lupusella: Okay.

Hon. Mr. Alexander: Your point is well taken, sir, and I hope I have made you feel a little more comfortable because my philosophy is the same as yours in this regard.

Mr. Lupusella: We were talking about last year, Mr. Chairman. I was making statements about the organization of the claims service division and progress in 1982, which was designed to speed up the claims adjudication process. Again, the reason why I am returning to the issue today is that the problem of last year has been brought to your attention this year, about the delay. The delay issue is affecting the whole operation of the claim for the injured worker--

Hon. Mr. Alexander: I hope not.

Mr. Lupusella: --starting from the accident report and appeals. I think that my friend from the Liberal Party was complaining about delay in the appeals system and we are getting into the area of adjudication and appeal board hearings, the same complaints which were brought to your attention last year. I do not want to read it, from answers, but they are the same.

Hon. Mr. Alexander: Please read it. Read it again because I want to be reminded.

Mr. Lupusella: They are the same.

Hon. Mr. Alexander: My job is to see to it that your expectations are met. I said there has been improvement.

Mr. Lupusella: Last year--


Hon. Mr. Alexander: Read what you said last year.

Mr. Lupusella: --I made a personal survey on the operation of the answers that are given at the lower level of the board. I made the same survey this year. I got in touch several times with claims, the rehabilitation and the medical aid departments. It is the same criticism. If you do not believe me or you think that I am exaggerating the symptoms of the problems, I can provide you the names of the people affected by this type of problem. But you do not want names and I do not want to mention names.

Hon. Mr. Alexander: I will take names.

Mr. Lupusella: I do not want to give names.

R-1115 follows



Mr. Lupusella: ~~I do not want to give names.~~ I praised last year a counselling specialist--it is on the Hansard--Margaret Jones. This year I had cases of memos sent by her to different departments. They are ignoring her memos. I do not know why. She is a very dedicated person about that. She understands the whole operation of the board. You can talk about any issue; she understands what is going on.

Hon. Mr. Alexander: I think I know the person about whom you are speaking right now and she is good.

Mr. Lupusella: People from other departments are ignoring their memos and the delay persists for months. She is surprised herself.


Last year I was talking about the delay which has taken place for an appeal adjudicator hearing or for an appeal board hearing. Altogether, when you initiate action on a specific claim until you get to the maximum appeal system, if all the decisions have been working against the injured worker, you are talking about a one-year delay almost. I mentioned seven months last year. But if you start to have problems and complicated claims such as the one I just mentioned and the injured worker receives adverse decisions from everybody, until they will get through an appeal board hearing you are talking about one year for sure.

Last year I mentioned we have noticed a considerable delay in the adjudication system and the appeal system. Before, the board heard cases in two or three months and now we have to wait more than seven months. Even though you have rejected that particular criticism in the content of your opening statement, because you were mentioning you were trying to do your best in delivering service to injured workers and you rejected my criticism, I can tell you again and I want to reiterate the principle, that if you get into the area of complicated claims from the very beginning until a board hearing is going to take place, you are talking about a one-year delay, not seven months.

11:20 a.m.

Last year again, which was March 6, 1984, we became aware of a 1981 survey for the pensioners conducted by the board as a sample. We were saying then from that survey that we are faced with 80,000 injured workers receiving Workers' Compensation Board pension benefits in 1981. Ten thousand people were over 65 years of age; 20,000 were unemployed, of whom 10,000 were receiving Canada pension plan disability benefits. The survey meant that from 80,000 pensioners, 30,000 people were working. The figures were accurate. Ten thousand of a potential 40,000 employable injured workers were unemployed--

R-1120 follows



(Mr. Lupusella)

...injured workers were unemployed at a rate of 25 per cent. I think the reason why I raised this particular comment was to attack the rehabilitation department, but I praised at least a change of policy coming from the board in relation to the principle of rehabilitation because at that time, with a 10 per cent disability award, the Workers' Compensation Board was reluctant to open rehabilitation files for injured workers. I do not know why. Maybe it was because, again, the policy was imposed in a very strict way, the percentage of disability was too low and the injured worker had an opportunity to go and look for a light job, and I do not think the board within the meaning of 10 per cent was categorizing injured workers with 10 per cent disability pensions to go and look for light jobs.

Based on this new type of approach used by the board, I am sure that new claims have been reopened on behalf of injured workers to be rehabilitated as a result of what I would call this change of approach. I do not think it was a change of policy. I think the board became more sensitive about the issue and has been more inclined to help rehabilitate injured workers receiving a pension in the range of 10 per cent or even less, and before the board was using the stringent approach, and people were not even receiving rehabilitation assistance with 10 per cent disability award.

If we want to correlate the figures from 1982 to 1983, I think the rehabilitation department became more active in relation to claims which had been reopened, and the increase must be attributed to that because you mentioned that in 1983 the number of injuries had decreased by 15 per cent.

Hon. Mr. Alexander: I do not think it was that much. I cannot recall.

Mr. Lupusella: I am sorry. Seven per cent?

Hon. Mr. Alexander: Yes, I think it is seven, five or seven per cent from 1982.

Mr. Lupusella: Five or seven per cent. I think the role of the rehabilitation department is now becoming increasingly demanding, first of all, because of the number of injured workers who are supposed to be served and the volume of files within the same department must be more pressing. My friend Floyd is going to talk about the issue of rehabilitation per se.

The reason why I praise the rehabilitation department on their new approach--

Hon. Mr. Alexander: I want to thank you for those very--

Mr. Lupusella: I will give you my own explanation.

Mr. Laughren: He is undermining his own colleague, that is what he is doing.

Hon. Mr. Alexander: I hope not, sir. I hope you are both sitting in the same parties with the same views.

Mr. Lupusella: I am just tackling one aspect of rehabilitation--

Hon. Mr. Alexander: We appreciate your comments, and we appreciate--

Mr. Lupusella: --because last year, if you will remember, we were really ??pinning the issue.

Hon. Mr. Alexander: You were after the old chairman last year.

Mr. Lupusella: We were really ??pinning the issue, and the rehabilitation--

Mr. Laughren: We appreciate your comments, too.

Hon. Mr. Alexander: I am glad that we have improved to your satisfaction at this point, but all I can say is we are going to continue--

Mr. Lupusella: Not yet.

Hon. Mr. Alexander: No, no. I have to finish. We are going to do even better.

Mr. Lupusella: I will demonstrate the extent of my satisfaction in a moment.

Hon. Mr. Alexander: Sir, be my guest. I am here to listen and try to get some expert advice in terms of how we should administer the act.

Mr. Lupusella: Last year, if you will recall, the rehabilitation...

1125 follows



Mr. Lupusella: Last year, if you will recall, the rehabilitation counsellors were playing an important role in the establishment of supplement pensions for injured workers. I am not just talking about injured workers receiving the level of pension in the range of 10 per cent; I am going from 10, below and even higher than that.

Mr. Laughren: Do you even include somebody with a broken back who has 30 per cent? That is all you can get.

Mr. Lupusella: No. At 30 per cent they used to receive the supplement pension to a certain extent.

Mr. Laughren: Imagine having a--

Mr. Chairman: Perhaps you can carry on this conversation at another place and time.

Mr. Lupusella: That is the meat chart, which--

Mr. Laughren: Yes, that is the meat chart.

Mr. Lupusella: Yes, we have to talk about the meat chart.

Mr. Laughren: Which they still worship, of course.

Mr. Lupusella: Let us use the nice words, "the clinical rating system."

Mr. Laughren: Yes, they genuflect the meat chart.

Mr. Lupusella: The counsellors, because they are providing this type of rehabilitation to injured workers, of course, send memos and content of interviews with injured workers, as to whether or not they are co-operating with them and as to whether or not they are making a sincere effort to look for light jobs, which means that the pension department is now responding favourably to assess supplement pensions on behalf of injured workers. The reason why I am praising the rehabilitation department is because of this type of approach given to the pension department in order that the supplement pension will be granted.

I also noticed that there was a change of attitude from counsellors, as well, to injured workers. They are explaining the law, and they are explaining what their role is all about, an approach that was never used in the past, and I was very critical. An injured worker was able to provide to my office the content of an interview with the rehabilitation counsellor, and I was very critical about the approach and so on. I noticed a change of attitude, and I know that injured workers are more informed about the role of rehabilitation counsellors now than before.

One thing which is lamentable is that they are still advising injured workers to apply for Canada pension plan, and that is something which is unacceptable to me.

(Mr. Lupusella)

I do not know. Maybe they are placing the information in the wrong perspective. Instead of explaining to injured workers that they have an option, as well, to apply for CPP, maybe they give the direct message to apply for CPP, and there is a difference in the approach. Then the injured worker has to make up his or her mind if the injured worker is placed in this type of situation, "I am going to provide to you rehabilitation, but there is a law at the federal level which gives you the opportunity to apply for CPP if you are going to fall into the principle of the Canada Pension Plan Act."

Mr. Chairman, the reason I am trying to elaborate on the issue is because I think this type of approach used by the rehabilitation officers is misleading to a certain extent. If the message to the injured workers is that they have to apply for Canada pension plan, you know very well--you have been a federal MP--you have to fall into the principles of the act, as well, which means, number 1, that you must be totally disabled, and number 2, you must have six consecutive years within the last ??three-year term from the time that you are applying for CPP.

It does not make any sense to give this type of information to injured workers who are not even falling into the principle of the CPP issue. Maybe they have been out of work for more than five years. Therefore, if they apply for CPP, they are not entitled to.

11:30 a.m.

~~They must also be aware that with a per cent disability~~

~~award~~
1130 follows

(Mr. Lupusella)

principle of the Canada pension plan issue, because maybe they have been out of work for more than five years; therefore if they apply for CPP, they are not entitled. Also, they must be aware that with a 10 per cent work disability and receiving a pension from the Workers' Compensation Board, eventually their application for CPP is going to be rejected because one principle of the law within the CPP act is that you must be 100 per cent disabled.

Unless they have other restrictions and other problems of which I am sure the rehabilitation counsellor is not aware, I do not think it is fair to portray this type of message and imagination to injured workers to apply for CPP. Because if they do apply, eventually they will not be entitled to it. Too, the imposing a restriction of their file will exclude them from the rehabilitation process and from the supplement pension. I do not think it is a fair game. It is as simple as that.

You give me the option. If I do not know the law, I respect the suggestions and recommendations coming from the rehabilitation officers.

Hon. Mr. Alexander: That is not the position we took, sir. It is an option that not ?? have to, but you clarify that.

Mr. Lupusella: You know very well when people applying for CPP, they are no longer eligible for rehabilitation assistance because they are imposing extra restrictions on the limitation of the work which they are able to perform in the labour market. Plus, they sign an application in which they consider themselves to be totally disabled. You have to demonstrate that.

Hon. Mr. Alexander: We will discuss that, sir, when you are through.

Mr. Lupusella: I am giving you the pros and cons. There was an improvement in the approach, there was an improvement in the attitude of counsellors--if I can use the words--becoming more humane in their approach--

Hon. Mr. Alexander: Those are my words, sir, humanize the board.

Mr. Lupusella: I think that in 1982, this type of feeling did not even exist among the total--maybe I am exaggerating--population of rehabilitation counsellors.

I have been trying to be fair in the credits and the criticisms., Mr. Chairman.

Hon. Mr. Alexander: Oh, you are being very fair, sir.

Mr. Lupusella: I hope I will see some type of improvement on that matter.

Hon. Mr. Alexander: As a former member of parliament, I can appreciate what you are saying and how you are doing it. You could sit there all morning and criticize, but you have given us credit where we have met your expectations. I find that a well worth--every now and again Floyd does the same thing, but very reluctantly.

Mr. Lupusella: Floyd has a supplementary in the meantime.

Mr. Laughren: When I compliment the board for doing something well, then they immediately slacken off and services deteriorate again--

Hon. Mr. Alexander: Oh, that is not the case, sir.

Mr. Laughren: --in the very area in which I have complimented you.

Hon. Mr. Alexander: Sir, that is not so.

Mr. Laughren: Do you see how difficult it is for members of the Legislature to make constructive criticism of the board when that happens?

Hon. Mr. Alexander: I understand. I hope that when we have made improvements we are not sliding back.

Mr. Laughren: I know. I do not doubt for a minute that you hope that.

Hon. Mr. Alexander: I would hope that does not happen. I think you should keep on progressing. Are we at a recess now, sir? Is that the idea?

The Acting Chairman (Mr. McLean): No. He had a supplementary and I guess he has completed it.

Mr. Laughren: Well, I have no ?? . I do not believe that Mr. Lupusella had even made his opening remarks yet.

Hon. Mr. Alexander: He has not given his opening statement yet.

Mr. Gillies: He has not really hit his stride yet.

Hon. Mr. Alexander: No, but he has some very good points and we are going to get to all of them, if possible, in the time frame we have. I have been marking them all down, I know my colleagues are marking them down, and I know you are not finished.

Mr. Lupusella: Again, Mr. Chairman, my friend, Floyd will have some harsh criticisms.

Mr. Laughren: No. I will say the positive things. You go ahead and cut.

Mr. Lupusella: I plan to do that.

Hon. Mr. Alexander: You chaps really do not know how much I enjoy being here. I just reminds me of the fond days, but carry on, sir.


Mr. Laughren: No, I really do not know how much you enjoy being here.

Hon. Mr. Alexander: I really do.

Mr. Laughren: Do you?

Hon. Mr. Alexander: I really enjoy this because it is a learning process and I think we get a lot of ideas from you with respect to how to administer the board. I can see, and I say with a great deal of respect, the posturing that is going on and the righteous indignation, the bombastic rhetoric, and I am just--

R-1135 follows



(Hon. Mr. Alexander)

ideas from you with respect to how to administer the board. I can see, and I say it with a great deal of respect, the posturing that is going on, the righteous indignation, the bombastic rhetoric, and I am just saying that lightly, because I used to do that and I used to love being in--

Mr. Laughren: Really? You never admitted it at the time though.

Hon. Mr. Alexander: Oh, well, sir, that was different. There was always seeking to getting ??into government. I wanted to show my stuff in government.

Mr. Lupusella: Keeping up with your commitments given to members of this Legislature, on March 7, 1984, I raised the issue of a memo which was supposed to be sent to the claims department, or other people involved in dealing with individual claims, in relation to the issue of the Workers' Compensation Board sending money to employers when employers have private plans covering injured workers.

Last year, I brought to your attention one case in which the money that the injured worker was supposed to receive, was sent to the employer because the employer had paid the employee through a private plan. At the end of the year, of course, she paid income tax. If she had received the money from WCB, she was not supposed to pay income tax. That injured worker, and other injured workers are not supposed to pay income tax.

Hon. Mr. Alexander: As you know now--my colleagues will correct me with respect to that--I guess there was a problem with respect to the income tax department, the injured worker and the board, as well. You will know of the recent Revenue Canada decision whereby those types of payments are not going to be taxed over the 75 per cent to which the injured worker is entitled. At one time, Revenue Canada was taxing the whole thing. As a result of the recent decision, I guess a ministerial directive, that has been changed, and I think we are going to have some of the injured workers contacting us in order to determine how much money was paid, because there is going to be a real windfall--if I could use that expression--for some injured workers as a result of this new Revenue Canada directive.

Mr. Lupusella: This one is a change in the law coming from the federal government. But at the time I raised the issue, you gave a commitment to us that you would send a memo to the different departments alerting them about this particular situation. Did you do that, in spite of the change of the law?

Hon. Mr. Alexander: I do not know. I cannot answer that, sir. Mr. Doug Cain is here and--

Mr. Lupusella: Mr. Van Cliffe answered and he stated, "I will be glad to send such a memo and remind the adjudication staff about this procedure."

Mr. McDonald: That was done, sir.

Mr. Lupusella: That was done.

Mr. McDonald: Yes, sir.

Mr. Lupusella: You had better come down and look at the memo.

Mr. McDonald: Pardon?

Mr. Lupusella: No. It was just an editorial comment.

Mr. McDonald: That information was probably communicated through a meeting, Mr. Lupusella.

Mr. Lupusella: Okay. Now I understand the difference between a meeting and an interview.

Interjection.

Hon. Mr. Alexander: John, behave.

Mr. Lupusella: So actually it was not a memo. You are contradicting yourself.

Mr. McDonald: It would be both, sir. It would be in the form of a memorandum, as well as individual advice to the adjudicators at the time of the meeting.

Mr. Laughren: Why would you need to do both?

Mr. McDonald: To make sure that the message is communicated, Mr. Laughren.

Mr. Laughren: I see.

Mr. Lupusella: Mr. McDonald, I understand that I was born in Italy, but there is a difference when you say: "I did it. I sent out a memo," and then you state, "I did it when a meeting took place." Either you did it as a form of a memo, or you let the people know when a meeting was called. You are stating that you did both.

Mr. Gillies: Mr. McDonald has said he did both.

11:40 a.m.

Mr. Lupusella: Okay. Again, going back to the issue of the 10 per cent, I am sure that would be 10 per cent--

R-1140 follows



(Mr. Lupusella)

~~...going back to the issue of the 10 per cent I am sure that would be a 10 per cent permanent pension would be to have members of the Legislature to have statistical data in the annual report about what is going on in that department on pension supplements, how many people have got supplement pensions, and so on.~~

Hon. Mr. Alexander: Would you be prepared, sir, to write to me and indicate what you would like to see with respect to that type of thing? I think I am a little confused, perhaps my colleagues are not, but I want to make sure that we know what you are talking about, if it is not too much trouble, that is.

Mr. Lupusella: It is not too much trouble to write you a letter but I think you are doing part of the job to provide figures and percentages about claims for injuries, and so on, the adjudication of the claims, even though we have had disagreements on the length of time. You can do the same thing about what is going on in the pension department.

Hon. Mr. Alexander: We will look into that, sir.

Mr. Lupusella: We would like to know the percentage of disabilities given to injured workers, how many people receive the supplement pension. It is that type of statistical data that we require.

Hon. Mr. Alexander: We will certainly look into that, sir.

Mr. Lupusella: Do you have any supplementaries, Floyd?

Mr. Laughren: Yes. One supplementary I had was when Mr. Lupusella was talking earlier about difficulty in phoning. What is going with the board and its phone services? Somebody told me this year or last year that the board spent a lot of money on a new telephone service.

Hon. Mr. Alexander: That is the state of the art. Mr. John McDonald is here. Perhaps he can review it for you and let you know what has happened.

Yes, as a matter of fact, it was an expenditure of money. That was to improve the service to injured workers. I hope it is working. As Mr. Lupusella has indicated, there are some departments that are good and some are bad, but I think his concern was to determine the pension. Mr. McDonald may be able to help you with respect to your question.

Mr. Laughren: Could I add to that area specifically that I understand his problems with the adjudicators. Are you aware of that being a problem or not?

Mr. McDonald: At the present time we have 547 lines coming into the adjudication and administrative services branch.

(Mr. McDonald)

As far as adjudicators are concerned there are 210 lines. In the pensions area there are 15 separate lines. We are in the process of doing another study on the number of busy signals coming through on those lines in an attempt to address what is seen to be a problem. We feel there are adequate lines.

Mr. Laughren: But you are aware there is a problem.

Mr. McDonald: We have been advised that some of the areas are having difficulty getting into a particular area.

Mr. Laughren: Presumably that is why you are doing the study?

Mr. McDonald: That is correct.

Mr. Laughren: I did not think it was my imagination that there are problems there.

Mr. McDonald: We have expanded the number of lines. There is a call-forward process when an adjudicator is leaving his desk that he would forward his calls to another adjudicator to handle his calls.

Mr. Laughren: Yes, because where we get flap-backed in our constituency office is when there is a question of pension supplements. There are delays in that whole process because of there being an inadequate phone service to the adjudicators. That is where it comes back to me.


Mr. McDonald: If you are talking specifically pensions adjudicators we are addressing that at the present time to find out what seems to be the problem in that area. What happens when the pensions adjudicator is conducting an interview in his office he will put his line on on call-forward to the telephone staff so that he is not interrupted during the course of that interview. That creates a busy signal of referral on to the next person. If that is not happening we are trying to establish that, but in order to do it you have to get a report from the Bell relating to the busy signals on these particular lines. We are in the process of doing that.

Mr. Laughren: When I hear you speaking like this, and when I heard you speaking earlier about interviews, and so forth, is there that high a proportion of decisions that are taken that involve interviews?

Mr. McDonald: Yes. Every individual who has a pension assessment is interviewed, Mr. Laughren.

Mr. Laughren: Oh, no, no.

(Tape R-1145 follows)



~~(Mr. Laughren):~~

~~proportion of the decisions that are taken that involve interviews.~~

~~Mr. McDonald: Yes. Every individual who has a pension assessment is interviewed.~~

Mr. Laughren: ~~Yes.~~ There are all sorts of decisions made, my constituents to use an example. The constituents sitting up in the Sudbury area someplace and the decision is being made in Toronto. I do not know why you continually go back to the ?? interviews.

Mr. McDonald: The only time a pension rating would be granted without an interview is if it is a straight schedule level of disability. If you lose the end of your finger, you know what the disability, if you lose one eye, you know what the disability is. Any nonscheduled rating, the man is interviewed either in Toronto or in Sudbury. They are regular rating trips to Sudbury, as I am sure you are aware of.

Mr. Laughren: The adjudicator sitting in the office at 2 Bloor Street East or West is not interviewing that injured worker necessarily. The interview may have taken place six months ago, or it may have taken place--

Mr. McDonald: I did not suggest he was in interviews all the time. What I said is, when he is in an interview, we put it on call forward. He has a certain number of interviews every day.

Mr. Laughren: Right, but what you are doing is you are throwing back to us your problem, when it is the solution we are after, not a reiteration of your problems. If there is a problem getting through to the adjudicators, then that should be addressed, not simply use the excuse that they are always or often in an interview.

Mr. McDonald: A good portion of the day is spent in interviews.

Mr. Laughren: Then there is something wrong with the system.

Mr. McDonald: Would you expect them to make the decision without interviewing the man after he was seen by the doctor?

Mr. Laughren: Of course not. There you go again. You are saying that because our people spend a lot of their time in interviews, we will just have to live with the fact that they cannot be reached. I would not run a system like that.

Mr. McDonald: I did not say that at all.

Mr. Laughren: That is what you are implying.

Mr. McDonald: I do not believe so.

Mr. Laughren: Then what are you saying?

Mr. McDonald: What I am suggesting that when he is in an interview the call is forwarded to someone else and when he is finished with the interview he will get that call and deal with it.

Mr. Laughren: That is assuming that it is forwarded to someone else who then passes the message back to the adjudicator. That seems to be the problem.

Mr. McDonald: I do not believe so. I think the calls are being forwarded and are being delivered.

Mr. Laughren: Why are you doing a study then? You admit there is a problem. Right?

Mr. McDonald: What I said is the number of lines in there may have to be increased.

Mr. Laughren: At least that is an admission that there is some kind of problem beyond the fact that the adjudicator is in an interview. You finally admit it. Just to keep saying over and over again that they are interviewing and do we not want them to do interviews. That does not solve it.

Mr. McDonald: I said that we had identified the problem with a number of busy signals in the area, and we are attempting to address that. We have increased the number of lines in there already and if we feel that further increases are required, they will be installed.

Mr. Laughren: What a struggle.

Mr. Lupusella: If I may continue, I was talking about the delay previously and the issue even on reply by letter. Last year was well taken but the problem persists. Going back to March 8, 1984 Mr. Van Clieaf stated: "Like the chairman, we have standards for replying to correspondence where an answer is necessary. The operating practices are that the inquiry will be acknowledged to let the writer at least know we have received the letter." I do not have any problems with that.

"That should be done very shortly after the letter is received by the adjudicator. The adjudicator then has up to 10 days to send a full reply in answer to that inquiry." That is where my problem is. It is not my problem. It is the problem of your department.

"I say up to, that is the maximum. If they cannot send a full reply within that time, they are to let the inquirer know that we are still dealing with it and will get back to them as soon as we can. There has been a change in our processing in that the letters now go to the claims adjudicators. The letters do not chase the files around the building. The letters go to the adjudicators and the adjudicators can identify that action is necessary, a reply is necessary.

(Mr. Lupusella)11:50 a.m.

"They can grade to a degree the urgency of replying to that correspondence. If necessary, they can instruct our record control people to..."

R-11:50-1 follows



(Mr. Lupusella)

of replying to that correspondence. If necessary, they can instruct our record control people to please go and get this file. For instance, it is in the hands of the medical branch, or whoever might have the need for the file at that point, the filing people will literally go and pick up the file and bring it back to the adjudicator so he can reply to that priority correspondence.

"Our activities are monitored on an overall basis. Three times a year we will do our survey on how we have responded to priority correspondence. I am not here to tell you we are meeting our goals in all cases. We are improving and, through our monitoring system, if we start to slip or get into a danger level, we will enforce our routines and procedures to try to meet the expected standards."

When you made this statement, Mr. Van Clieaf, I was sure--

Hon. Mr. Alexander: Mr. Van Clieaf is not here, that is Mr. MacDonald, but the statement still stands.

Mr. Lupusella: I am sorry--I was really sure that the problem would be resolved because the monitoring system was in place last year. When people are ignoring memos, I think that that system is not working at all.

Hon. Mr. Alexander: I want Mr. John MacDonald, in due course, to direct his attention to that concern because I would like to know about it myself, with respect to ignoring memos. You mentioned one young lady in particular--I think it is the same one--and I am a little surprised at that, so I want to--

Mr. Lupusella: I mentioned just one name, just to give you the idea that my criticism--

Hon. Mr. Alexander: Has some merit.

Mr. Lupusella: --has a merit.

Hon. Mr. Alexander: We are prepared to answer that.

Mr. Lupusella: Talking about delay, last year I gave a suggestion about the processing of a clothing allowance. I think I was speaking to Dr. Mitchell. As you are aware, every year injured workers wearing braces and so on, by policy of the board, are supposed to apply for clothing allowance on a yearly basis and they must demonstrate that the brace is damaging their clothing and they are wearing their braces on a daily basis.

I gave a suggestion that a standard letter would be written by the board and sent to injured workers on a yearly basis.

Hon. Mr. Alexander: To those who are wearing some form of brace or prosthesis?

Mr. Lupusella: Right. In other words, you write the

(Mr. Lupusella)

standard letter and the injured worker has just to sign. It is a very simple method. You can have it as a standard letter in different languages, you can leave the blank spaces so they can be filled out by injured workers, it will be less work for the board and, even for the new people who are wearing a brace at the time the pension assessment is made, the board is aware as to whether or not the injured worker is entitled to a clothing allowance and the form must be filled out then and that the board has to take over for the years to come and get confirmation from the injured worker that he is wearing the brace which is damaging his clothing.

It is a simple procedure, less work for injured workers, less work for the board.

You stated last year--I think it was Dr. Mitchell--that my suggestion--which should not be mind, if you have a better suggestion than this you can take action but I do not think any action was taken with respect to this particular issue unless you are able to show me the opposite.

Hon. Mr. Alexander: We will address that when you are through your submission.

Mr. Lupusella: I beg your pardon?

Hon. Mr. Alexander: I said we would address that when you are through your submission. I am making a note of all your questions.

Mr. Lupusella: Okay. March 8, 1984, I asked as to whether or not the figures about the 1981 survey of pensioners and how much pensioners there were up to the end of 1983~~0~~..

(Tape R-1155 follows)



(Mr. Lupusella)

--the figures about the 1981 survey of pensioners. How many pensioners there were until the end of 1983. If members of this committee could have the figures. Mr. McDonald answered, "I do not see any reason why you cannot see the survey in that form as long as you understand that it is not completely significant."

I requested that the survey should be made available to members of this committee and I have not seen any survey since March 8, 1984 unless you were expecting me to write a letter to make the specific request. I think when we are talking it is already a request. I see people from the board taking notes and everything. Are these notes destroyed after you leave this committee? I do not know. Is it just an editorial comment?

Hon. Mr. Alexander: I do not destroy mine. Oh no, we do not destroy anything. We have to go back and review the notes. Maybe Doug Cain can reply to the question posed about the survey.

Mr. Cain: I stand to be corrected Mr. Lupusella, but I believe I provided that report to you during the hearings on Bill 101, I may be wrong but I am almost 100 per cent positive I did provide it to the committee. I can certainly check on it. I believe I did.

Mr. Lupusella: Excerpts of it.

Mr. Cain: No, it was the total survey. I am certain of it.

Mr. Lupusella: With total ?? and everything?

Mr. Cain: Yes.

Mr. Lupusella: I never saw it. I am sorry.

Mr. Cain: I will check when I go back to the board, but I am almost 100 per cent sure I did.

Mr. Lupusella: You gave us a lot of statistical data. Maybe you are of the impression that you gave us that survey. I think you gave us extracts of the survey to come out with the figures which the committee was ??

Mr. Chairman: I understand that we did receive those figures.

Mr. Lupusella: Yes about pensioners, but the full survey. I requested a full survey of 1981 and the form which it was sent on and the questions which the board raised to injured workers to get their reply. I do not know what kind of a survey you did. I have no idea.

Mr. Chairman: You had better find out then.

Mr. Cain: I will check on it.

Mr. Chairman: You still have the floor. Have you any more information to bring to us?

Mr. Lupusella: At the moment an overall review of commitments to us by the board based on the criticism which was raised last year. Because it is common knowledge that members of this committee every year get so frustrated on raising issues all over again, I think I was compelled this year to go back a little bit to what the board has stated to us. I hope next year if I am still the critic and if I am re-elected, I can talk about other things and not the same issues.

Continuing on with my comment about the overall situation of the board. Mr. Chairman, I think we are all aware the Minister of Labour (Mr. Ramsay) has announced the provisions of Bill 101, An Act to Amend the Workers' Compensation Act which will be implemented on a staggered basis in 1985.

Mr. Laughren: Staggered is the right word I think.

Mr. Haggerty: Help keep the promise.


Mr. Lupusella: Changes in compensation benefits we know will take effect April 1 and the balance of amendments to the Workers' Compensation Act, many dealing with administrative and procedural changes, will take effect in July 1985.

Hon. Mr. Alexander: That is when it is planned sir.

12:00 p.m.

Mr. Lupusella: I am sure we are all familiar with the content of Bill 101 and we are all knowledgeable about the persistent position taken by government members in relation to amendments and so on and how the minister rejected very constructive amendments which were moved by my colleague Mr. Laughren and members of the Liberal Party as well.

S-1200-1 follows



(Mr. Lupusella)

...Floyd and members of the Liberal Party as well. In Bill 101 I have great concern about the issue about the new corporate board. I understand time framework limitations about the implementation of the bill and so on but I also understand the word independency of the new corporate board.

Hon. Mr. Alexander: Are you talking about the independency of the independent tripartite appeal board handles?

Mr. Lupusella: Yes.

Hon. Mr. Alexander: The corporate board is the part-time director of a full-time chairman, full-time vice-chairman and from five to nine part-time directors. That is not independent. That is the new corporate board structure.

Mr. Lupusella: That is what I am talking about, the new corporate board structure which is independent from--

Hon. Mr. Alexander: No, there are two matters to which you must direct your attention. One, Bill 101 calls for a restructuring of the corporate board. In that regard, as I understand it, you have a full-time chairman, full-time vice-chairman and from five to nine part-time directors who will be representative or represent perhaps the law, perhaps the injured workers, perhaps the doctors of labour, of management. That is something else. That is not independent. That is the new corporate board structure.

Mr. Lupusella: The new boards--

Hon. Mr. Alexander: The structure I think you are making reference to is the independent tripartite appeal board panel which will be chaired by a new chairman. That is going to be independent. That is what Mr. ??W was alluding to. We were second-guessing the committee, sir. We have moved the appeal structure to 2 Bloor Street West in preparation for this new independent body. That is the body--

Mr. Lupusella: I am not talking about the independent appeal tribunal--

Hon. Mr. Alexander: So you are talking the corporate board.

Mr. Lupusella: The corporate board--

Hon. Mr. Alexander: Okay, fine.

Mr. Lupusella: Restructured with the new people and so on.

Hon. Mr. Alexander: I think Mr. Gillies would--

Mr. Lupusella: It appears, Mr. Chairman, that the new people appointed into the new restructured corporate board will see the layout format of policies which will be forthcoming from the implementation of Bill 101. I am sure the present corporate board is already working on the policy decision-making process of Bill 101. Am I correct?

Hon. Mr. Alexander: There is no question about that. It is not only respect to the independent appeal board panel where we are taking steps as much as we can, given the fact that you are going to have a chairman of that independent, we can only go so far because a lot of the matters, issues, criteria and staff which he or she will require will be left up to him or her. In terms of the corporate board we are making preparation now, sir, to see to it.

Mr. Lupusella: That is the area--

Hon. Mr. Alexander: We do not know who is going to be on it.

Mr. Laughren: Did you say he or she?

Hon. Mr. Alexander: He or she?

Mr. Laughren: That implies a woman at a senior in the compensation board.

Hon. Mr. Alexander: Sir, I am glad you weighed that, do you have a moment. If you will just give me a moment--

Mr. Laughren: --look around.

Hon. Mr. Alexander: I am glad you raised that, sir--

Mr. Laughren: Let us start at the top and work our way down to the bottom, shall we.

Hon. Mr. Alexander: All right. You can start at the top, my executive assistant--here is another breakthrough--is a woman. That is the first time in the history of the board.

Mr. Laughren: Who is she?

Hon. Mr. Alexander: Louisa ??Jakameti.

Mr. Laughren: She never comes here.

Hon. Mr. Alexander: Someone has to look after the chairman back there. I just wanted to let you know that we are doing something in this regard. I can also advise, sir, that the new assistant secretary of the board is a woman.

Mr. Laughren: Assistant secretary.

Hon. Mr. Alexander: Yes, sir. That is a first. Now I am trying to find--

Mr. Haggerty: Sounds like you are trying to build another empire.

Hon. Mr. Alexander: I will get into that a little further. I am glad you raised it. That will give you some indication.

Mr. Laughren: So far I am not impressed.

Hon. Mr. Alexander: You should be impressed, sir. I know you want perfection.

Mr. Laughren: Out of what--100 top executives?

Hon. Mr. Alexander: I have not finished yet, sir. I want to get my document but I just want to let you know.

Mr. Laughren: I did not say I would not be impressed, I said, "So far, I am not."

Hon. Mr. Alexander: You should, with all due respect.

Mr. Laughren: I will wait until I have seen it all--

Hon. Mr. Alexander: All right. You were talking about the corporate board, sir.

Mr. Lupusella: Maybe I am talking to the wrong person because I was supposed to talk to the Minister of Labour (Mr. Ramsay) about that.

R1205 follows



Hon. Mr. Alexander: You are talking about the corporate board--

Mr. Lupusella: Maybe I was taking to the wrong person because I was supposed to talk to the Minister of Labour (Mr. Ramsay), about that.

Mr. Laughren: Just one quick question. It surely would not be asking too much to have an organizational chart of the board from the top down, would it?

Hon. Mr. Alexander: An organizational chart with names on it?

Mr. Laughren: So we can see exactly how these people fit into the power structure, the hierarchy.

Hon. Mr. Alexander: I do not know how much work there is in that.

Mr. Laughren: Oh, come on, be nice.

Hon. Mr. Alexander: Let us put it this way. If you are talking about the entire 3,000 people in the board--

Mr. Laughren: No, no. Let me tell you what I am talking about. On page 4, if you can put the names in there with the gender that would be helpful.

Hon. Mr. Alexander: I think we could. Yes, seeing how you have asked for it. I want to let you know there has been progress made. I think there has been an upward progress to something like 38-odd per cent of women on the board holding managerial or administrative positions. I just gave you two illustrations.

Mr. Laughren: This would be helpful.

Mr. Gillies: I might add, from the ministry's point of view that we are committed to further progress.

Hon. Mr. Alexander: Oh, we are always making progress.

Mr. Lupusella: Yes. Maybe I was supposed to raise this issue with the Minister of Labour because you just stated that the new people that are supposed to sit on the new structure of the corporate board have not been appointed yet.

Hon. Mr. Alexander: This I do not know, sir. Perhaps you can direct the question to Mr. Gillies. I do not have that information.

Mr. Lupusella: Maybe Mr. Gillies can give us a resumé of accountability about these appointments.

Mr. Gillies: I am not able at this time, Mr. Lupusella,

(Mr. Gillies)

to inform you who the members are going to be. I would remind you, as stated in Bill 101, that the bill calls for the board to be broadly representative of employers, workers, professional people and the public. You can rest assured that I will be conveying to the minister your concern, and I am sure the concern of all members of the committee, and everyone here, that that board should also be broadly representative of the population of men and women.

I know that my minister has a great concern in this area. We have been trying to improve on our own performance in that regard at the ministry.

Mr. Lupusella: I cannot rest assured, Mr. Gillies with respect, for one simple reason because the present corporate board is already developing policies for the new act to be implemented. I do not think it should have the layout work, in which they do not have any input whatsoever on the new policy-making process because everything has been already done. I have a problem with that.

Hon. Mr. Alexander: Sir, maybe I can clear that up. You have a concern with that, and I think there is some justification in it. It has to be business as usual but, in any event, we have to be very careful in terms of how far we can go knowing that there is going to be a new corporate board coming onstream soon. So at the moment we are picking and choosing. We are being selective especially with the kinds of policies, perhaps earth-shaking policies that have to be dealt with at this time. But we are sort of holding it down until we know where we are going because we want the new corporate board to be involved with the policy-making decisions.

This may be that there will be some delay in some very important matters, but I think it is only appropriate that the new corporate board will have some say in terms of future policies. So it is a sort of holding down, if you will, of a lot of policy decisions which will not affect immediately the injured workers.

Mr. Haggerty: They would be the last ones that would receive any benefits out of it, eh? That is what you are saying.

Hon. Mr. Alexander: Mr. Haggerty said something, and I appreciate his comment, but he is wrong.

Mr. Haggerty: Time will only tell, though, will it not?

Hon. Mr. Alexander: Time will always tell everything. Time will tell whether I get gray-haired more than I am. But I hope you understand what I am saying.

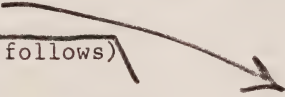
12:10 p.m.

Mr. Lupusella: I understand it. I am not critical about your position at this time because the Minister of Labour is

(Mr. Lupusella)

responsible this deficiency which is taking place between the present corporate board and the new restructured corporate board. I do not think that is fair for the new people sitting on the new board to see a layout format of a policy which eventually cannot be changed.

(Tape R-1210 follows)



js

(Mr. Lupusella)

of policies which eventually cannot be changed.

On the other side, I understand the situation that injured workers are supposed to get the benefits to which they are entitled under Bill 101. If there is a person to be blamed, it is the Minister of Labour (Mr. Ramsay) and not the chairman of the board.

Mr. Gillies: I would like to assure you, Mr. Lupusella, I believe you have raised two very legitimate points: one, that the new corporate board be as representative as possible in including representatives in terms of male/female breakdown and, two, that the new corporate board have a very considerable say in the striking of policy for the board following the implementation of Bill 101. I want to assure you that I share both of those concerns and they will be conveyed to the minister this very day.

Mr. Lupusella: Can we get a guarantee at this time that a message will be given to the new people who will be sitting on the new corporate board to review all the policies which have been enacted by the present board? The reason why the present board is enacting policies at this time is because of this delay, but they were supposed to be part of this process. In other words, what I would like to see is flexibility from the present corporate board to have the maximum input at the time when the new people will be appointed. I hope it will be as soon as possible in order to review the present policies which have been enacted by the present board in relation to Bill 101. Their comments will be taken into consideration as well.

It does not make any sense to have representatives sitting on the new board coming from the labour movement or representatives of the total population of Ontario and so on. They might have a genuine concern about policies which have been enacted at this point. Because the layout work has been done, the people who are working for the board now might say, "We feel adamant you do not know the implications of what you are talking about eventually, because we did all of the preview work in relation to the policies and you have to accept them as they are now."

Hon. Mr. Alexander: Are you talking about the policies vis-à-vis Bill 101?

Mr. Lupusella: Yes.

Hon. Mr. Alexander: I do not think you have to worry about this. At least at this particular time, we had to second guess the passage of Bill 101 and we did. That meant that all divisions were apprised of the needs that would be required in terms of implementing Bill 101 in terms of board function. The new corporate board is certainly going to be the policy makers of the board. You can have my assurance that whatever they need or whatever we think, without hiding anything, will be brought to your attention.

Mr. Lupusella: You do not have to hide because there is nothing to hide.

Hon. Mr. Alexander: Right.

Mr. Lupusella: My concern is that you are laying out policies at this point which the new people are supposed to be part of and because of the Minister of Labour they are not around yet.

Hon. Mr. Alexander: I cannot answer the second part.

Mr. Gillies: I would like to just add to what the chairman said. The logic of what you are saying, Mr. Lupusella, is irrefutable. Anyone taking on new responsibilities in an organization on a board to which they have not previously belonged is going to want, as I am sure you or I would, to review the policies of that organization. I can give you every assurance that the new corporate board, on assuming its responsibilities, I am sure, will be working closely with the officials of the board and probably consulting with previous board members to ensure that their policy ideas are formulated properly in the early stages and that the reforms that they see as necessary can be brought before--

Mr. Lupusella: I hope this gap will be closed as soon as possible by conveying this particular concern to the Minister of Labour and bringing to his attention that there is a loophole existing at this point in the formulating of policy.

Mr. Gillies: I say again I am not convinced it is a loophole because it is fairly logical, but I can give you every assurance that I will convey your concerns on both of these items to the minister today.

Mr. Laughren: It might even be a new minister.

Hon. Mr. Alexander: If I may add, I think we at the board welcome the new corporate board structure.

Mr. Lupusella: No doubt about it.

Hon. Mr. Alexander: In the first instance, I think if there was a concern before, the board was not representative, if you will, of the--

R-1215 follows

...there was a concern before. The board was not representative of the several sectors within the community. Now when you have somebody who is going to represent--I do not know if there will be somebody representing the injured workers; hopefully so. They will be sitting in on the corporate board and bringing the concerns of their constituency to the board. The same with management; the same with labour, with law, and the same with perhaps some of the social sciences.

In the long run, when the board does devise policy, you will have their representatives sitting around the round table, which is not what happens now. To a certain extent, it does. We go out and get it, but we do not know whether they re representing. Now they will bring whatever their concerns are of the several segments to the corporate board, and in this way we will have an even better policy because you will have the input by several people who represent a significant number of people in Ontario.

Mr. Lupusella: I will have to see their performance before I render my judgement. I might concur with you that there will no problem whatsoever, but in the meantime there is a loophole even though you are dismissing the gap.

Mr. Gillies: We are not dismissing the concern.

Mr. Lupusella: Okay, the gap--

Mr. Gillies: It would seem to follow logically--

Mr. Lupusella: There is a gap. I hope the people will be appointed as soon as possible so that they will be part of the structure.

If I may continue with my opening remarks, I would be doing a disservice to the injured workers of Ontario if I did not raise the concerns that New Democrats and myself have about the upcoming transition period at the board. That is the point I raise. We are particularly concerned that the implementation of Bill 101 amendments will result in a two-tiered bureaucratic mess which cannot, by any stretch of the imagination, provide justice for injured workers.

Hon. Mr. Alexander: I do not quite understand what you mean by a two-tiered bureaucratic mess.

Mr. Lupusella: You had an opportunity to get the message coming from injured workers and the concern of the NDP which was raised on the floor of the Legislature on the passage of Bill 101. You might dismiss our argument that the Workers' Compensation Board is bureaucratic in principle. You are dismissing this argument.

Hon. Mr. Alexander: No, no. I am the first one to say that is a big bureaucracy--

Mr. Lupusella: And as a result of that bureaucracy, there are people suffering the consequences of that bureaucracy, and you are trying to improve that bureaucracy.

Now there is a new addendum to the new bureaucracy. The board has to deal with the present act and the new one. There are two classes of injured workers, the old one and the new one which will be covered under Bill 101. We on this side of the table are afraid about the bureaucratic mess which will be caused by the implementation and operation of two acts.

Hon. Mr. Alexander: I do not know if Mr. McDonald will be able to answer that question, but I hope we are up to the challenge. Every year when you have your ad hoc--just for the amendments, we have to be up to the challenge in that respect too. I hope we have not fallen short there. Yet, this is a brand new act. There are a lot of implications to it. There are a lot of complexities, but ever since Bill 101 was tabled, and even before that--I would say since the white paper, people at the board have been looking at it and asking, "What do we do?"--


Mr. Laughren: A lot of meetings, I bet.

Hon. Mr. Alexander: You are right, Mr. Laughren, a lot of meetings to try and get the process in order, not knowing what form the bill would take in the end, but seeing that everything the white paper indicated and the original draft act would come into place. We have been working on that. When the implementation date comes forth, April 1, I think we will be on top of that. I do not think I can add anything further.

12:20 p.m.

Mr. Lupusella: Maybe we can get some highlights of that process later on. I would like to remind you that--

(R1220 follows)



(Mr. Lupusella)

~~... highlights of that process later on. I would like to remind you that our concern is genuine because it is a new act and we might get into a bureaucratic mess.~~

You will recall when the present act was first enacted in 1914, it was a new act. Through the years the situation generated to the point where injured workers have been crying out for justice all the time. I hope that you will appreciate our comments and take our criticism in the light of our past experience. We have to learn from the past to build the future and to make a better future for injured workers. WCB's record in the past was not the best one for injured workers.

Hon. Mr. Alexander: I always say, sir, there is room for improvement. There is room for improvement in an MPP's effectiveness, there is room for improvement in government, in opposition and from day-to-day ??

Mr. Lupusella: I respect that opinion.

Hon. Mr. Alexander: From day to day we try to do the best we can in terms of improving the service, so that is uppermost in my mind and I know it is uppermost in the minds of my colleagues. What you are saying is--

Mr. Lupusella: I have been trying to elaborate on my statement about the bureaucratic mess.

Hon. Mr. Alexander: Sir, I say this with all the sincerity I can: I hope that we will not have a bureaucratic mess. I think we have had ample lead time and if we cannot meet the challenge with that ample lead time, there is something wrong with our system as we know it, with respect to the board. We have had ample lead time in order to know what the concerns could be and would be, to what extent we have to be on top of everything that relates to Bill 101, and I think we are prepared.

Mr. Lupusella: Therefore, Mr. Chairman, it is imperative that we begin to examine now, and not in 1987, the implications of what essentially will be two systems of compensation benefits existing side-by-side. New Democrats welcome the process of review and the reform of the workers' compensation system which began five years ago.

We have made and will continue to make suggestions for change of workers' compensation, but we cannot support Bill 101 amendments any more than we support the inadequate Workers' Compensation Act which was supposed to improve.

We stated our position clearly during the entire review process. We will never stopped repeating it in the hope the message will finally get across to the Ontario government. New Democrats never believe that legislative and administrative tinkering could resolve the fundamental problems of the workers'

(Mr. Lupusella)

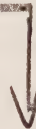
compensation system in Ontario. We remain convinced that only a universal and comprehensive sickness, accident and disability insurance program can provide the necessary protection that workers and their families deserve.

I know that a lot of members on the other side of the Legislature will not accept the principle, but I think it is time for the government to take a ?? task, that the solution to the problem for injured workers is the universal and comprehensive sickness-accident disability insurance program.

New Democrats are firmly committed to a program which would provide compensation for both illness and ?? irrespective of ?? and irrespective of the cause of the injury, illness or disability. To ?? logic, to provide compensation for an injured worker if he or she is disabled at work, but to leave workers and their families entirely on their own if they are injured at home, on the street or in an automobile. The physical incapacity is the same, the loss of earning ability is the same, the anguish of the family is the same, the need for rehabilitation is the same. Everything is the same except for compensation.

We begin from the premise that workers and their families should not be penalized when injuries or illnesses occur. Society must accept the responsibility for the worker of those who, because of injury, illness or other disability, are not able to support themselves. It is a basic right, not charitable assistance. ~~This insurance against~~

1225-1 follows



(Mr. Lupusella)

We begin from the premise that workers and their families should not be penalized when injuries or illnesses occur. Society must accept the responsibility for the welfare of those who, because of injury, illness or other disability, are not able to support themselves. It is a basic right, not charitable assistance. It is insurance against incapacity not ?? to be cut back at government whim.

New Democrats have proposed the necessary elements of a universal compensation system which are: compensation on a universal basis to injured persons, both for permanent physical disability and for income losses, fully indexed to inflation and adjusted quarterly; financing the whole community from a levy on employers, self-employed individuals, motor vehicle drivers and from general review; compensation for those incapacitated by illness or other disability; repeal of the Workers' Compensation Act and exclusion of private insurers from the field of accident, sickness and disability coverage--maybe you do not like this proposal because your chair might fly away--provision of survivor's benefits to insure continuing and adequate incomes for surviving dependants; action to prevent accidents by promoting safer work places and the requirements that employers provide adequate employment and employment opportunities for disabled workers.

Mr. Gillies, are you saying Miller's Muskoka or Miller's Ontario?

Mr. Gillies: It is Miller's Ontario now.

Mr. Lupusella: I thought it was just Muskoka.

Mr. Gillies: No, the whole province, as you will see this year.

Hon. Mr. Alexander: Oh, oh, some honourable member says oh, oh.

Mr. Lupusella: Who said so.

Interjection: We all agree.

Mr. Lupusella: It would be a disaster if it will be Millere's Muskoka. You might end up with one seat.

Hon. Mr. Alexander: Oh, oh.

Mr. Laughren: There goes Lincoln.

Hon. Mr. Alexander: If I were to run again in your riding, I would whip you.

Interjection: --knocking on doors.

Mr. Lupusella: Did you say in my riding?

Hon. Mr. Alexander: Your riding or Mr. Laughren's riding. I can go whip both of you. Hands down.

Mr. Lupusella: You are always welcome.

Can I invite you to come?

Hon. Mr. Alexander: No, I do not like that Lincoln. I like being the chairman of the board.

Mr. Laughren: I do not doubt that at all.

Hon. Mr. Alexander: It is more exciting. It is more ??challenging. It is a tough job. You are underpaid. You are not appreciated, and no one cares about you.

Mr. Laughren: You are probably one of the few people who appreciates that.

Hon. Mr. Alexander: I really do. I have had the experience so I know what you are going through. That is why I am sitting here so patient and understanding.

Mr. Lupusella: I hope we are not wasting your time.

Mr. Haggerty: Let us give him a crying towel.

Hon. Mr. Alexander: No. You said that when we come to these meetings that we listen to you, and you have said there has been improvement. I would like to say marked improvement, but I will not put words into your mouth.

Mr. Lupusella: I would say a just slight improvement.

Hon. Mr. Alexander: Now, you have changed to slight. You said marked.

Mr. Lupusella: Let us follow my opening remarks.

Hon. Mr. Alexander: Let us say there is improvement and that is good enough for me.

Mr. Lupusella: A just compensation system must provide for accident prevention, income maintenance, and medical and vocational rehabilitation of sick, injured or disabled persons. The current worker's compensation system in Ontario and the future amended version fails on all three counts.

On page 15 of the 1983 annual report, we are told the WCB received 344,758 new claims. This translates to about three work place accidents every minute of the working day in 1983. Projections have been made that over 400,000 for the number of 1984 new claims, unless you have a different theory. I do not know.

Hon. Mr. Alexander: Three hundred and eighty-eight.

Mr. Lupusella: In 1984? So there is an increase.

Hon. Mr. Alexander: That is right.

Mr. Lupusella: You never win with WCB.

Hon. Mr. Alexander: You put words in my mouth. There are 388,000 claims for 1984, I think.

Mr. Lupusella: You were proud of the reduction in the number of accidents.

12:30 p.m.

Hon. Mr. Alexander: Yes, but I think you had more people in the work force. There were more blue collar workers. As a result of that, there have been more employees hired and therefore the accident rate...

R-1230-1 follows



Hon. Mr. Alexander: Yes, but I think you had more people in the work force. There were more blue-collar workers. As a result of that, I think there have been more employees hired and therefore, the accident rate, unfortunately, does rise. We are never proud of the accidents. There is no question about that. I agree with you.

Mr. Lupusella: I do not make the same comparisons because of the number of more people working, private or public sector. I think the problem lies in accident prevention.

Hon. Mr. Alexander: That is a very good point.

Mr. Lupusella: That is where the problem is.

Hon. Mr. Alexander: I think we can all deliver that message to employers around the province. I know I do.

Mr. Lupusella: I am not the Premier to do that. I think the Premier has to undertake the task to convince the employers of this province that accident prevention must be the first goal of this province.

Mr. Chairman: Do you have much more of your statement to put into the record because it is now 12:30?

Mr. Lupusella: I will continue.

The committee recessed at 12:30 p.m.

R-85
(Printed as R-49)

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STANDING COMMITTEE ON RESOURCES DEVELOPMENT
ANNUAL REPORT, WORKERS' COMPENSATION BOARD, 1983
WEDNESDAY, FEBRUARY 6, 1985
Afternoon sitting
Draft transcript

STANDING COMMITTEE ON RESOURCES DEVELOPMENT

CHAIRMAN: Barlow, W. W. (Cambridge PC)
VICE-CHAIRMAN: Villeneuve, N. (Stormont, Dundas and Glengarry PC)
Havrot, E. M. (Timiskaming PC)
Lane, J. G. (Algoma-Manitoulin PC)
Laughren, F. (Nickel Belt NDP)
Lupusella, A. (Dovercourt NDP)
McKessock, R. (Grey L)
McNeil, R. K. (Elgin PC)
Reed, J. A. (Halton-Burlington L)
Riddell, J. K. (Huron-Middlesex L)
Watson, A. N. (Chatham-Kent PC)
Yakubuski, P. J. (Renfrew South PC)

Substitutions:

Gordon, J. K. (Sudbury PC) for Mr. Villeneuve
Haggerty, R. (Erie L) for Mr. Reed
MacQuarrie, R. W. (Carleton East PC) for Mr. McNeil
McCaffrey, R. B. (Armourdale PC) for Mr. Havrot
McLean, A. K. (Simcoe East PC) for Mr. Watson

Also taking part:

Gillies, P. A., Parliamentary Assistant to the Minister of
Labour (Brantford PC)

Clerk: Arnott, D.

From the Workers' Compensation Board:

Alexander, Hon. L. M., Chairman
Cain, D., Associate Secretary
Darnbrough, A. J., Executive Director, Vocational Rehabilitation
Division
Hagan, A., Co-Ordinator, Human Rights and Equal Opportunity
McDonald, J. F., Executive Director, Claims Services Division
Reilly, R. D., Assistant General Manager, Executive Division
Warrington, T. D., Vice-Chairman of Appeals

LEGISLATIVE ASSEMBLY OF ONTARIO
STANDING COMMITTEE ON RESOURCES DEVELOPMENT

Wednesday, February 6, 1985

The committee resumed at 2:08 p.m. in committee room 1.

ANNUAL REPORT, WORKERS' COMPENSATION BOARD, 1983
(continued)

Mr. Chairman: We will resume. When we broke for lunch, Mr. Lupusella was still on his opening remarks and I would ask him to resume.

Mr. Lupusella: I thank you, Mr. Chairman. We were talking about the number of new claims in 1983 and there was a reference about page 15 of the annual report. Of the total claims, 147,666 were accepted as lost-time claims involving time off work and compensation payments.

We are also told on page 15 of the annual report that in 1983 there were 82,889 WCB pensioners. That figure may now well be over 90,000, I do not know if you have the new figures for 1984.

Hon. Mr. Alexander: Is that under the new permanent disability pensions?

Mr. Lupusella: Yes.

Hon. Mr. Alexander: Have you read the second paragraph, Mr. Lupusella, or am I looking at the wrong thing?

Mr. Lupusella: Page 15.

Hon. Mr. Alexander: Yes, 82,899.

Mr. Lupusella: That figure may now well be over 90,000, I do not know.

Hon. Mr. Alexander: We will have the information for you, I am not sure.

2:10 p.m.

Mr. Lupusella: What this litany of statistics does not tell us about is the pain and suffering of the injured worker and his family who must cope with the disruption caused by the work injury and the possible permanent disability, nor does it tell us of the financial hardship the family must face because of the fundamentally unfair policies of the...

(Tape R-1410 follows)

(Mr. Lupusella)

~~because of the fundamentally unfair policies~~ in the structure of the Workers' Compensation Board.

Talking about pain and suffering, then we get into a field of insensitivity and I know that the chairman and others might become sensitive about the use of the word "insensitivity" to pain in people working for the board.

I would like to draw to his attention that someone from St. Catharines wrote him a letter on January 18, 1985. The letter was addressed to him personally.

Hon. Mr. Alexander: He had a reply, I hope.

Mr. Lupusella: It was a long letter. I do not see any reply yet.

Hon. Mr. Alexander: Well, I did.

Mr. Lupusella: You did reply, did you?

Hon. Mr. Alexander: I hope I did; I always do.

Mr. Lupusella: There was a covering letter attaching the front copy of the letter which was sent to your office. It was not addressed to me, it was addressed to Mel Swart, MPP. Because it is a short letter, I just want to connect the principle of pain and suffering to what this lady is saying and the contents of this covering letter.

"Dear Mr. Swart: I have recently been with the compensation rehabilitation hospital, which was not a pleasant stay."

I know that we are going to visit the centre.

"I have written a little to Mr. Lincoln Alexander, Chairman of the Workers' Compensation Board, concerning this stay. I would appreciate your passing the copy I have sent to you along to the persons responsible for compensation."

That means she did not get a reply.

"After several attempts to tell them that the long halls and therapy was increasing my pain, only to be told it was anxiety, I would see a psychologist. I phoned my union office, as well as contact my doctor. I felt that the treatment was inappropriate. The doctor"--I do not know if it was her family doctor or somebody else--"advised me to leave and they would not discharge me. I was to sign myself out. Would you look at my benefits? After my last meeting with the doctors I was discharged with full benefits.

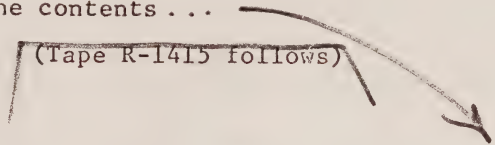
"My letter to Mr. Alexander was sent because I feel that no one should be treated as I was. From speaking to people who have previously been in this hospital and with patients in at the same time, it seems to be a consensus of pain that you are treated as

(Mr. Lupusella)

if your pain is not important, speaking to patients in a manner that is offensive, quietly or not so quietly, disagreeing with you until they say you are antagonistic. You eventually use your emotional control when you are told you are unable to cope and they feel you should see a psychologist or a psychiatrist."

At any rate, this letter is handwritten. It is a long letter and I did not read the contents...

(Tape R-1415 follows)



~~...see a psychologist or a psychiatrist. At any rate, this letter~~
is handwritten and it is a long letter. I did not read the contents of the letter which was sent to the chairman of the board, but I hope I will have time to go through it. This is a person who was complaining about the treatment. She got the impression that pain and suffering was irrelevant during the course of her physiotherapy which she had at the rehabilitation hospital.

If I may continue with my presentation. My own experiences with the old act and my impression of the amended act is that they are based on the premise that workers must be punished for the misfortune of being injured on the job--

Hon. Mr. Alexander: Mr. Lupusella, I did not hear your opening remarks. I was lost there. Will you start that paragraph over again or else in the sense, rather. No. On the document from which you are reading now.

Mr. Lupusella: That is my presentation.

Hon. Mr. Alexander: Yes. I missed the first part.

Mr. Lupusella: The opening remarks of my own presentation?

Hon. Mr. Alexander: Yes.

Mr. Lupusella: What this litany of permanent pensioners of statistics does not tell us is the pain and suffering of the injured worker. His family must cope with the disruption caused by the work injury and the possible permanent disability.

In reference to that, I was talking about pain and suffering of this lady. She got the impression at the hospital that pain and suffering was irrelevant in the sense that they were more concerned about the treatment or physiotherapy she was supposed to receive rather than understanding what her problems were in relation to pain.

Hon. Mr. Alexander: Thank you. Now I understand you.

Mr. Lupusella: I argue at last year's committee hearings and I will argue again that injured workers need more money so they can live decently. I know that is not your problem and it is a political decision which must be taken down here, but I know for a fact that the board a leverage to deliver benefits and has discretionary power to implement sections of the act to give certain amounts of benefits at its discretion.

I think that during the course of the Bill 101 debate we argued with the Minister of Labour (Mr. Ramsay) that such discretionary power should be taken away from the board because within the act the word "may" is widely used by the power which the board has.

Of course, we did not succeed in our attempt although we understand that increasing the level of benefits is something which has to do with Queen's Park. I know that there are several sections of the present Workers' Compensation Act and the new act in which the board has lots of discretionary power to give or not to give.

If the people are complaining about the amount of benefits or when the benefit are cut off, I think the board is liable as well instead of giving the full fault to the government which is in power.

I would also like to remind the board that unfair and discriminatory changes in the Income Tax Act now means that disabled Ontarians, 65 years of age or older, who receive benefits from the Workers' Compensation Board will have their income from other federal and provincial programs reduced.

It also means that dependants must claim the workers' compensation benefits for income tax purposes.

2:20 p.m./

Last year, the Minister of Labour was present and I invited him and you as the chairman to make a deputation before the federal government. I know it is not part of your responsibility...

R-1420-1 follows.



(Mr. Lupusella)

~~The Minister of Labour (Mr. Ramsay) was present and I invited him and you, as chairman, to make a deputation before the federal government. I know it is not part of your responsibility but~~ surely, it is the responsibility of the minister and you, as the chairman as well, to make a presentation, because eventually then the Liberal Party, but now the Conservative Party, leading Ottawa, were not quite sensitive to the detrimental effects of the passage of the income tax law. I am not sure if you undertook the task then to make a deputation or to write letters to the minister. Maybe you can give us a briefing.

Hon. Mr. Alexander: Do you want me to answer that now? I cannot speak on behalf of any specific initiatives the minister has taken, although I know he is interested in the subject. I have forwarded him correspondence, and I think this is the thing you would like to say without me getting too involved.

We realize it is a federal program, but I have been following the matter up with a Dr. Bruce ??Halliday who is a member of parliament and as well there has been correspondence to Dr. Bruce ??Halliday from the Hon. Jake Epp who is the Minister of Health and Welfare in Ottawa and the last bit I have had, even though the Department of National Revenue seems to have stood pat with respect to their decision--in other words, a buck is a buck is a buck notwithstanding it may be an injured worker who is applying for a supplement under the old age security plan--the Minister of Health and Welfare has indicated to Mr. Epp, who forwarded the correspondence to me that he is reviewing the situation.

I do not know whether it is through as yet, but I have made inquiries about it. I do not know how much further I can go with respect to that, because you know it is a pretty tricky thing. It is a question of whether all those people who are receiving pensions from any source, whether their should be any special recognition for the needs of the injured worker. I think that is a political decision, but the Minister of National Revenue as well as the Minister of Health and Welfare will have to be deeply embroiled in it, in terms of who is going to win in the long run.

All I can say is I have received correspondence from Dr. Bruce ??Halliday who has kept me apprised of the situation as well, the Minister of Health has indicated he would be reviewing it, but I do not know what that means--in terms of reviewing.

Mr. Lupusella: I think your main task was to take the initiative. I am pleased you did so.

Hon. Mr. Alexander: I do not want to mislead you here. I know that I have been involved, but how it happened--I became more involved--

Mr. Lupusella: Maybe Mr. Gillies can give us the other side of the story about the minister's action in relation to this issue.

Mr. Gillies: I have to say I am sorry. I was not here last year when the minister was, and I do not know what action has been taken on that issue. I have to find out and get back to you on that.

Mr. Lupusella: Okay. Fair enough. Now you have a different political party in Ottawa and I hope the Minister of Labour is able to convey the message of injured workers that they have been penalized in different ways under Bill 101, and also by the terrible law which was passed by the then Liberal Party.

Mr. Chairman: Before you leave that point--Mr. Haggerty.

Mr. Haggerty: I have a couple of them. I am delighted to see that the chairman still has a pipeline to Ottawa to the family compact.

Hon. Mr. Alexander: Just like I had a pipeline to the Liberal establishment here.

Mr. Laughren: Do you think the chairman is part of the family compact?


Hon. Mr. Alexander: Including your party.

Mr. Haggerty: I think I have mentioned this before during different debates and our party has presented certain views on this matter. Now that we have the workers' compensation dovetailed in with old age pension, Canada pension, and particularly the person reaching the age of 65, why not give the person who reaches the age of 65 a lump sum settlement. Is he not entitled to that lump sum that you have stores off in some trust and only give him the interest year by year on?

Hon. Mr. Alexander: A lump settlement by way of a pension that he has?

Mr. Haggerty: You are going to be dovetailing it in with Canada pension. You are going to be dovetailing it in with old age pension. It is just like some of the interest, for example, that have a similar program. Once they go on early pension and as soon as they attain the age of 65, ...

R-1425-1 follows



(Mr. Haggerty)

~~With old age pension it is just like some of the interest fees that have a similar program. Once they go on early pension and soon as they attain the age of 65 then their old age pension is taken off of their company pension plan. Really they are not getting rich on it. In fact they are getting less. In other words, they are not permitted to stack.~~

What I am suggesting is in your trust fund that is set aside for the injured worker, you may have an assessment award of about \$30,000. It depends upon the degree of injury. Actually what you are really doing is putting that money in trust for him and then paying back an interest on that. That is what you are giving him when you say a 15 per cent award against \$3,000 a year. I am suggesting at the age of 65 that lump sum is still there. It does not go to the survivor. Would it not be fairer to give that person a lump sum award at that particular age of 65 if it is \$18,000 or \$20,000. Give him all of it or even a fair portion of it and then wipe it off if you do not have to go back to the board again. That should be it. If he wants to invest it on his own he can do that at he age of 65.

The way the board is set up now as I understand it, and I do not think I am too far wrong. When an actuary makes the assessment and says he has 15 per cent disability and the industry is charged \$20,000 or \$30,000 or whatever. Then the board comes up with an annual figure of say a permanent monthly disability rating at \$180 a month. He may get \$2,000 or \$3,000 a year. When he passes on, regardless of his age, that money stays with the board. They can re-invest it again.

To me this should be a type of insurance where there is a final settlement, even for a survivor in this particular area.

Hon. Mr. Alexander: Mr. Haggerty, I will be very frank. I have never heard this philosophy--

Mr. Haggerty: I have expressed it many times, even in committee.

Hon. Mr. Alexander: I do not think I agree then sir. I do not think I have a ready answer for you. I do not know which one of my colleagues could address themselves to this particular matter. I think what you are talking about is when a person becomes 65 that they cannot value their pension.

Mr. Haggerty: That is right.

Hon. Mr. Alexander: It should be given.

Mr. Haggerty: He is still going to have that pain and suffering. Why should he be cut back to almost nothing?

Hon. Mr. Alexander: Perhaps Mr. Cain can address this somewhat.

9
Mr. Haggerty: I will be glad when we get the vice-chairman in here because I think a woman's perspective in this, looking at it from the survival angle, I think we may get some changes made.

Mr. Laughren: You mean the executive.

Mr. Haggerty: Yes, the executive.

Hon. Mr. Alexander: All right. Are you ready for the answer? I think we can address this.

Mr. Cain: When a clinical pension award is provided to an injured worker, it is at a certain percentage and it is for the lifetime of the worker until they die. It is at no time affected by any other plan, CPP, either disability or pension or their pension at work. Not by anything.

When that pension is capitalized, it is capitalized on the basis of course on the amount of pension and the expected life of the person or people in general. Therefore, the act dictates that we pay it for the lifetime. It is true and I am sure it will come up that people will talk about why we do not commute more pensions. That is an issue, but I am simply saying that in effect 43(1) of the current act says you are supposed to pay it for the lifetime of the injured worker.


If by chance you did choose however at age 65, that people felt the legislation was there so we could take whatever is left, and as you can imagine the principle on that pension is pretty small at the age of 65, particularly if the person's pension started at the age of 30, because it has been diminishing through the years, then some workers certainly would benefit, particularly if they perhaps died at 67 or 68. But the worker that lived until 80 would lose because that pension probably is capitalized on the basis--and I am not really certain--but maybe an age of 72 lifespan. They will have 10 more years of pension than the capitalized value of the pension than the fund would provide them with.

Based on the act, the approach the board has taken is it is a lifetime pension. It is not affected by any other plan and will not be under the new bill by the way. You see CPP is not deducted from the clinical pension under Bill 101. Nothing affects the clinical pension. That will continue to be the approach the board will take.

2:30 p.m.

Mr. Haggerty: Has the board done any scenarios on this particular area that you might question--

R-1430-1 follows



~~(Mr. Cain):~~

~~--is not deducted from the clinical pension under Bill 101. Nothing affects the clinical pension. That will continue to be the approach the board will take.~~

Mr. Haggerty: ~~Has the board done any scenarios in this particular area that you might question on this at all. Say what advantage they are to a person who may want to commute their pensions at the age of 65? Should that option be available for them?~~

Mr. Cain: I would think not. Mr. McDonald would be more able to answer.

Mr. McDonald: No we have done no such study to my knowledge. Mr. Neal might be able to comment on that sir, but I am not aware of any. It has never been raised as an issue to my knowledge.

Hon. Mr. Alexander: Well Mr. Haggerty, I guess what I have to say now is that we will--

Mr. Lupusella: The issue on compensation was raised in several instances in this committee.

Hon. Mr. Alexander: Oh yes. But I do not think--at least not a computation at age 65. I can have Mr. Neal look at your particular question to find out just what the implications are, the numbers and so forth and so on, which I hope could be helpful.

Mr. Haggerty: I would just like to see that scenario.

Hon. Mr. Alexander: All right. We will certainly have Mr. Neal look at it. I see my colleagues are writing that down. So we will follow it through.

Mr. Lupusella: I found the position of the board more or less contradictory because if the level of pension ranges from one per cent to 10 per cent, the board has a discretion to commute the pension.

Hon. Mr. Alexander: That is right, may.

Mr. Lupusella: May. It is not written in the act.

Hon. Mr. Alexander: Yes it is.

Mr. Lupusella: It used to be policy before.

Mr. Cain: No. Under the current act section 43(4).

Mr. Lupusella: No, I am talking about the old act.

Mr. Cain: Under the old act it was section 43 something.

Mr. Lupusella: So the discretionary power is there.

Hon. Mr. Alexander: Up to 10 per cent I believe.

Mr. Lupusella: Up to 10 per cent.

Hon. Mr. Alexander: Right.

Mr. Lupusella: Which gives you the hint that even above the 10 per cent you have discretionary power to commute and you have a set of policies preventing people from receiving a commutation. As far as I am concerned, there is a contradiction on the way in which the board operates the operation of the act.

Hon. Mr. Alexander: Mr. McDonald, could you help us with this. I know we have a discretionary power up to 10 per cent. As a matter of fact, sometimes I wish that was not in there because it accrued a whole lot of problems for the board. I know we are extremely careful, not careful, I think in the interests of the injured worker, we do not like to just commute pensions because there have been instances where the venture if you will has been unsuccessful. I think you know about that. I think our bottom line is if it is for a rehabilitative measure, if it is a sound sort of thing we will give it. I hope you appreciate that in a lot of instances that is not so.

Mr. Lupusella: Let us give you another situation.

Hon. Mr. Alexander: Let us have Mr. McDonald give us a little more detail on it. I know I am interested in that because sometimes I see that a pension is commuted for something and somebody else asks me the same thing and it is not. Sometimes I wonder, where is the distinction between case A and case B. There must be reasons in the lower level there as to why.

Mr. Lupusella: You may remember last year's case about payment of a mortgage. This guy lost the appeal, demanding to get a partial commutation of two pensions. I know for a fact that if the person applies for a partial or a full commutation to open a business because of the process of rehabilitation of the injured worker, he gets the commutation.

Hon. Mr. Alexander: May get it.

Mr. Lupusella: Based on my own experience, the door is more open for a person who gets into business to get the commutation than a person applying for--

Hon. Mr. Alexander: He wants to discharge a mortgage.

Mr. Lupusella: Yes. If you compare, before he will make the statement, if you compare the two extremes. The one for rehabilitation and the other one for payment or discharge of the mortgage. The payment or commutation given to open a business is more risky. The person might go bankrupt. So he is left without money. He has to close the business and the money is gone. For a discharge of a mortgage, at least you know the money is secured.

R-1435-1 follows



(Mr. Lupusella)

left without money, has to close down the business and the money is gone. With the discharge of a mortgage, at least you know that the money is secured. If the person is an intelligent person and has a mind on how to invest the money, he is going to save money. He is not supposed to pay extra interest to the bank because he is going to save the money, and the money saved can be spent for rehabilitation purposes. So, I really do not understand the criteria used by the board.

Hon. Mr. Alexander: Help us in this regard, sir.

Mr. McDonald: What I was going to talk about, sir, is the issue of 10 per cent less in the wording of the current act and the wording of the new act. In the old act, it says;

"Where the impairment of the earning capacity of the worker does not exceed 10 per cent of his earning capacity, instead of such weekly or periodical payment, the board shall, unless in the opinion of the board it would not be to the advantage of the worker to do so, direct that such lump sum as may be considered to be the equivalent of it, shall be paid to the worker."

Usually what you are getting into in these circumstances, if the board feels that the disability is liable to be progressive and go beyond the 10 per cent, we would not normally commute those.

The wording in the new act is somewhat similar, and the "shall" is there, as well, but that it deals with the less than 10 per cent. The rationale for commutations beyond that is handled in the vocational rehabilitation area, as you are aware.

Mr. Lupusella: Yes. I was making reference to people receiving a permanent disability pension above the 10 per cent mark.

Hon. Mr. Alexander: Mr. Darnbrough will handle that.

Mr. Lupusella: I know for a fact that some people got a commutation on their pension. The degree of their disability was 25 per cent. They got full commutation to open a business for rehabilitation purposes. The same person closed the business three years after anyway.

Hon. Mr. Alexander: That is what frightens me.

Mr. Lupusella: The business did not go well, but for mortgage purposes, the money is well spent. The board knows where the money is going. You can have guarantees with the bank or with a private person that he gets the money for mortgage purposes. It is less risky than opening a business. That is why I do not understand the policy.

Hon. Mr. Alexander: Let us have Mr. Darnbrough expand a bit on over the 10 per cent.

Mr. Darnbrough: Mr. Lupusella has raised the issue of commutation of current disability awards as they relate to mortgages, businesses, and so on. The commutation of an award per se is given under our criteria for the purposes of maintaining someone's income level over life, recognizing that his or her earnings capacity has been somewhat disrupted by the injury and by the permanent disability that remains.

To make a decision about commuting the permanent disability award depends on to what extent commuting the award will affect that person's ability to live and to meet the financial obligations into the future regardless of how much that person is able to earn in the employment market. To commute for a mortgage is a very serious decision and our criteria establishes that--

Mr. Lupusella: ??

Mr. Darnbrough: You will appreciate my initial explanation, the reason for commutation and the reason for a pension.

Our criteria establishes that the person has to be in some jeopardy of losing the home in order for us to consider commutation for mortgage purposes. It is as simple as that. To establish a business, clearly if it is decided that business venture is a viable one and that the person will be able to manage the business, then we are more inclined to make commutations for that purpose, because it is consistent with the fundamental philosophy that through the establishment of the business the person will be able to maintain an income and remain employed for many years, and therefore it is a rehabilitation measure of some kind.

2:40 p.m.

Mr. Lupusella: I appreciate your explanation. Nothing is new in your statement, but if I may speak for a few minutes about the content of the criteria used by the board to the principle of commutation. As I said before, for business purposes, you are satisfied that the person goes to a rehabilitation process, so there is an income which is not guaranteed. If he is going to open a business in an area where there is no income, he might close the business. Period. There is a higher risk for a person to open a business and, in the meantime, is facilitated to--

R-1440 follows



(Mr. Lupusella)

If he is going to open a business in an area where there is no income, he might close the business. Period. There is a higher risk for a person to open a business and, in the meantime, is facilitated to get a commutation because it satisfies the content of the board's criteria.

For mortgage purposes, that particular person or any person who is asking for a commutation, especially when it is partial commutation, you make a distinction that the partial commutation should be based half of the percentage of the disability. It satisfies you because there is a permanent income coming from the remaining percentage of the disability. So, he is going to get the pension on a monthly basis.

If I may use an example. If I have a 20 per cent disability award, a \$200 pension on a monthly basis which is permanent, then I am asking for half commutation of 20 per cent, which is 10 per cent, I have a 10 per cent pension guaranteed for life. Am I correct?

Mr. Darnbrough: Yes.

Mr. Lupusella: So there is an income level coming from half of the pension.

If the board is going to be more lenient, the other portion is going to be invested to pay off the mortgage, which is safe, is not risky as is the issue of the business, and is well invested because the board should be satisfied with where the money is going. You can have safety procedures to make sure that the money goes to discharge a mortgage, and the board is not satisfied. I still do not understand why this criteria is applied because it does not make sense to me.

Mr. Darnbrough: It is simply a matter of taking a look at the person's total economic situation and determining whether or not they are in jeopardy of losing the home that they currently own.

Mr. Lupusella: Well, I do not accept the premise of losing the home.

Mr. Darnbrough: If that is in danger then, of course, we would help them to establish a pattern to look after their expenditures with the income they have, and that, very often, includes commutation which would take care of the disposal of the mortgage.

Mr. Lupusella: In relation to the case which I brought to your attention last year, the person was working at a light job. He had an income from the light job--because he fully co-operated with the rehabilitation department, and so on--and actually it was the rehabilitation department that found him a job. So, I do not think the discharge of a partial commutation of two pensions and not one--it was a typical case. I do not know how

(Mr. Lupusella)

I lost the case and I was not even able to convince the appeal board panel that the partial commutation of the two pensions was appropriate. He could have ended up with one full pension. So there was a steady income there.

The reason why I brought the issue before this committee is because the board is so reluctant to give partial or full commutations to people. But if the person has to appeal, the appeal has to be so close to the time when the person has to get a mortgage from the bank, that you leave the person without options. He has to give up not by his own will, but by the will of the board, even by delaying the issue of the appeal hearing. I brought the case to your attention because there was no way in which we could make the appeal at the time when he was supposed to sign the paper to borrow the money from the bank.

Mr. Laughren: I believe the delays are deliberate.

Mr. Lupusella: It was deliberate.

Mr. Laughren: Would you believe from May to January for a commutation appeal? That is the kind of thing which is going on.

Mr. Lupusella: It was deliberate.

Mr. Laughren: Mr. Lupusella is dead on on this one, I will tell you.

Mr. Lupusella: He is still working at a light job; he did not lose his job.

Hon. Mr. Alexander: Mr. Lupusella, may I just interject for a moment? When you use the word "deliberate"--

Mr. Lupusella: It was deliberate on that occasion.

Hon. Mr. Alexander: --let me say that I do not accept that. I do not think there is any deliberate--

Mr. Laughren: Well, tell me why then.

Mr. Lupusella: It was deliberate because--

Hon. Mr. Alexander: I do not think there was any deliberate move on the part of the board.

Mr. Lupusella: I can pull out the file. I sent you a letter.

Hon. Mr. Alexander: I am talking about the word "deliberate," sir.

Mr. Lupusella: It was deliberate because you were alerted about the case and the reason why I wrote you a letter was to speed up the date of the appeal, because we did not want to get into this type of situation.

Hon. Mr. Alexander: Speeding up the date of appeal is--

R-1445 follows



~~(Mr. Lupusella).~~

about the case and the reason why I wrote you a letter is to speed up the date of the appeal because we did not want to get into this type of a situation.

Hon. Mr. Alexander: Leading up to the day of the appeal is one thing, but what I am questioning is the use of the word "deliberate".

Mr. Laughren: Do you know why we believe it is deliberate?

Hon. Mr. Alexander: Please tell me that.

Mr. Laughren: I will tell you why, because when we talk to the board about commutations, the philosophy that always comes through is that the worker has a right to a pension but not a commutation of that pension. The pension is the worker's, but the commutation is not, for cash settlement.

I am not being unfair to the board when I say that is the philosophy of the board. Right, Mr. Cain?

Mr. Cain: That is correct and Mr. Darnbrough just explained the two reasons why one would commute it, otherwise it is a lifetime pension.

Mr. Lupusella: When a pension is given to an injured worker it is given on the ground as long as the disability will persist, it does not say lifetime, which means that the discretionary power of the board can be used, even to recall an injured worker and say, "We are going to appeal your pension because you are fully recovered." You have even this discretionary power.

Mr. Cain: Subsection 43(1) of the act does say that it will be a weekly or other periodical payment during the lifetime of the worker or such other period as the board may fix.

Mr. Lupusella: Then when you write letters to injured workers, why do you not write that the 10 per cent, 20 per cent pension is given for life instead of writing for the duration of the permanent disability? Maybe you have to restructure the forms which you send out to injured workers.

Mr. MacDonald: We do say that.

Mr. Lupusella: No, not for life, for the duration of the disability.

Hon. Mr. Alexander: Do you want to comment on that, Mr. Danbrough because I hear Mr. MacDonald--

^{DARN}
Mr. Danbrough: I think Mr. Lupusella is referring to the letter that describes a permanent disability pension when it has been awarded and it refers to the length of time the pension will

(Mr. ^{Darn} Donbrough)

be made and that is for the duration of the disability rather than life. I am not sure that there is a significant difference between the two, not when we have determined in the first instance that the disability is permanent in nature and therefore will be with the individual for life.

Mr. Lupusella: I understand, but the act is clear what you are writing for someone who is not knowledgeable about the act and gets the impression that, as long as he is disabled, he is going to get a pension but, if he is going to get better, the board has the power even to repeal the pension.

Mr. Cain: The board does have the power to repeal the pension if he gets better, yes. The board does not go out and check on pensioners, but they could do it.

Mr. Lupusella: Then you agree with me.

Mr. Cain: I am saying it is for the lifetime of the worker or such other period as the board may fix.

Hon. Mr. Alexander: What is your next point, Mr. Lupusella?

Mr. Lupusella: My next point is about the famous case, about the deliberate--

Hon. Mr. Alexander: I do not think it is deliberate. I am sure you do not really mean that.

Mr. Laughren: It is not an honest approach to a--

Hon. Mr. Alexander: It is a subjective approach.

Mr. Chairman: That is a rather harsh word to use, Mr. Laughren. I think you should reconsider that.

Hon. Mr. Alexander: I will not go that far, and ask him to withdraw it.

Mr. Laughren: Yes, but it is not an honest approach. "Your appeal is being processed and in due course you will be told. If it is a commutation appeal that is being processed, it takes that long to get it done.

Hon. Mr. Alexander: But it is not deliberate.

Mr. Laughren: It is a coincidence, is that what you want us to believe?

Hon. Mr. Alexander: That is a much better word.

Mr. Chairman: That is a better word; I would rather hear that word.

Mr. Lupusella: At any rate, Bill 101 amendments will increase the maximum amount of average earnings upon which the loss of earnings is calculated for benefits purposes from the present \$26,800 to \$31,500. New Democrats believe there should be no earnings ceiling. You might reply that is not your problem, it is a problem that belongs down here.


Hon. Mr. Alexander: You read my mind correctly.

Mr. Lupusella: All eligible workers should have the right to complete income replacement and not be financially penalized in the case of a compensable injury. That is your jurisdiction.

2:50 p.m.

I want to bring to your attention that there is little financial reason for retaining an earnings ceiling. In 1983 the average annual wage for claimants was \$20,991. That is why the government is using its fanfare all the time that the ceiling has been increased to a level where a person can make and become rich...

(Tape R-1450 follows)



(Mr. Lupusella)

~~where a person can make and become rich~~ now. They noticed the fiscal data, the average annual wage was \$29,991.

Mr. Gillies: I do not think the government has ever said that.

Mr. Lupusella: All the time they are using a fanfare, each announcement every year increasing the ceiling to a maximum of \$31,500 when the average annual wage for claimants was \$29,991. There is nothing to lose. The fanfare goes on. There used to be articles on the front of the newspapers, at least you are satisfying the general public that injured workers are well off when they are receiving compensation and there is no need for them to complain. Sure, they have a right to complain.

Under the new act benefits will be based on 90 of the injured worker's preaccident net earnings rather than the present 75 per cent of the gross earnings. We New Democrats view this as nothing more than an unjust tax on disabled workers and we reject it. While I think the minister heard arguments after arguments about this issue, he was so persistent to reflect the general will of the majority of the Tory members that we were unable to change his mind.

We especially object to this system because it works to the advantage of some workers and the disadvantage of others, depending on their pre-injury salary and the number of dependents, and also because the 75 per cent of the gross earnings and the 90 per cent of the net earnings system for basing benefits will be sitting side by side when the Bill 101 amendments come into effect on April 1, we will be faced with the further absurd situation of many injured workers receiving a better or worse deal on their benefits, depending on their date of injury.

This discriminatory practice must end. New Democrats believe that 100 per cent of pre-injury earnings must be the basis of compensation and that these earnings should include part-time, casual and other earnings to maintain the principle that all lost earnings should be compensated for.

Payments for survivors' and dependants' benefits under Bill 101 are not enough and they are not retroactive. In our view, provision for surviving spouses, children and other dependants is basic and should not vary because the worker was unfortunate enough to have been killed on the job prior to April 1, 1985.

Mr. Chairman, for your benefit, I know that your informant kept you well informed during the course of the debate--

Hon. Mr. Alexander: Yes, he did, he brought me Hansard, too.

Mr. Lupusella: --on Bill 101, but we will rehearse it again to make sure that the minister and his assistants will understand the implication of the big sin which they committed

(Mr. Lupusella)

against injured workers across Ontario, that retroactivity was something which was denied. It was denied on the basis of the people who really deserve compensation, people killed on the job. If they did not feel moved by such perspective, either they do not understand the system, or maybe they understand the system financially, how it works, but they do not understand the human suffering in our society.

I think that injured workers were attacked on several occasions and now abuse the system, in particular employers who made pitches before us, that a good majority of people are getting advantage of the system and some injured workers are not supposed to get money from WCB.

Here is a clear-cut case which I am sure the general public would have accepted, people killed on the job. There was no doubt in people's minds or in the government's mind that compensation is here to stay...



(Tape R-1455 follows)

22 ✓
(Mr. Lupusella)
killed on the job. There was no doubt in people's or the government's mind that compensation is here to stay, and to serve people who are legitimately injured or killed on the job, we have to give the right compensation. The retroactivity was supposed to be implemented to cover all injured workers who have been killed as a result of an accident.

Compensation should be equal to what the dead workers would have reached not only had he or she lived, but also had his or her earnings followed normal work life development pattern. There should be no penalty for those bereaved by the death of a worker, and in particular no penalty for spouses under 40 or for those eligible for survivor's benefits under the CPP.

In fatal accident cases, survivor and dependant awards should be set at 100 per cent of the worker's pre-accident earnings, fully indexed for inflation and adjusted for lost future earnings development. Neither the old Workers' Compensation Act nor the amended version provide for temporary compensation benefits equal to 100 per cent of pre-injury net disposal earnings.

The New Democrats believe any worker who is injured should not be subject to a cut in income due to a work-related disability. This is tantamount to paying a fine for being injured. We regard it as fundamental that there be temporary compensation benefits for 100 per cent of income lost until the onset of permanent disability and the wage loss pension payment.

The compensation benefits of injured workers are constantly being eroded by inflation. Increases, when they come, are usually months later than appropriate and furthermore, unpredictable. There are no provision in either the old Workers' Compensation Act or Bill 101 amendments for regular cost-of-living increases to benefits.

In order to provide financial stability for injured workers, New Democrats believe the WCB benefits should be fully indexed to inflation, such adjustments to be made according to changes in the consumer price index and to be made at least quarterly and by regulation. In addition, pension levels must be adjust not only for cost-of-living increases, but also to recognize lost opportunities of normal career development or job progression.

There is no justification for freezing an injured workers income level without regard to the normal anticipated increases which will accrue to his or her peer group. As I will discuss later, lack of full automatic indexing of benefits to inflation also has implications on the board's unfunded liability.

(Mr. Lupusella)

The infamous meat chart, or clinical rating system, will be retained in the amended Workers' Compensation Act. New Democrats have argued long and hard against a system which bases permanent pensions on percentage and assignment to body payments. This disability rating system, the loss of a finger to both a construction worker and a teacher, results in the same percentage of worth, although the effect on the earnings of the construction worker would probably be more severe than on the teacher.

3 p.m.

Now that we are on that argument, last year I raised the issue of the revision of the clinical rating system. In the United States, such revision took place a few years ago and the board made a commitment. I could spend a few minutes to go into the content of last year's answers, but I will not. I am sure the chairman and Dr. Mitchell will recall the state of criticism in relation to this particular aspect of compensation. I got the feeling that the...

R-1500-1 follows



(Mr. Lupusella)

~~Dr. Mitchell will recall the state of criticism in relation to this particular aspect of compensation. I got the feeling there~~ was strong commitment from board's officials last year that such revision would take place as soon as possible. Again, I am going by memory. I clearly stated that we do not need specialists from the United States to revamp the clinical rating system. We have enough expertise in Ontario and across Canada to have our own clinical rating system. I recall the discussion very well.

Hon. Mr. Alexander: Do you want the answer now in terms of what was ?? or at the end of your submission, because I have a list of things here which we want to bring your attention to, but it is up to you.

Mr. Lupusella: If you are taking notes, I can go on.

Hon. Mr. Alexander: I have the notes. Carry on then.

Mr. Lupusella: New Democrats recognize the injustices and the failings of the current and soon to be amended compensation system. We want all injured workers to receive a lifetime fully indexed pension to compensate for the pain and suffering that result from disabling injury. Let us not forget that a permanent disabling injury has damaged the lives of the worker and his family and its effects are permanent, 24 hours a day, 365 days a year.

In addition, we want all injured workers to receive a second lifetime fully indexed wage loss pension to compensate for income loss resulting from disabling injury. It would compensate not only for wage loss at the time of the entry into the labour force, but also for the effect on the future earnings of permanently disabled workers.

I know from my own daily experience with injured workers in my riding that many are receiving inadequate WCB pensions, in many cases because they were assessed at low rates of partial disability. You are also teaching me that the present clinical rating system is open to interpretation as well. Besides the percentage figure which is given to an injured worker to assess the degree of disability you have guidelines within the rating system which is open to interpretation and doctors of the board are applying the interpretation of these guidelines.

Elderly injured workers are particularly hard hit. Many have received less than favourable treatment by the WCB, rehabilitation division, and many are unemployed. I am sure the frustrations of injured workers in my riding are shared throughout the province. Although the WCB annual report does provide us with the fact that there were 82,889 injured workers active pensions on file at the end of 1983, it does not give us a statistical profile of the pensioners population. The only figures we have available are from a sample survey done by the board in 1981. Our information from this survey is that of approximately 8,000 WCB pensioners in 1981, an estimated 30,000 were over 65 years old, 20,000 were unemployed--

Hon. Mr. Alexander: Did you cover this point before? I think I have this down. I do not want to detract from you but I have it here.

Mr. Lupusella: I raised the issue going back--

Hon. Mr. Alexander: Here it is here. Pensions 80,000, 30,000 working, 40,000 unemployed and I was going to have someone direct their attention to that, but you carry on.

Mr. Lupusella: Yes, I raised the issue last year and I was reading from answers.

Hon. Mr. Alexander: Then you are just doing it again.

Mr. Lupusella: This means that of the 80,000 pension, 30,000 were working. It also means that 10,000 out of a potential 40,000 employable injured workers were unemployed, a rate of 25 per cent. We were told last March that the board had some concern about the accuracy of this survey...

R-1505-1 follows



...3,000 employable injured workers who are unemployed, a rate of 25 per cent. We were told last March that the board had some concern about the accuracy of this survey and that discussions were taking place to make a better assessment of the situation.

The question which I am posing: Has the board conducted another survey of pensioners? If not, why not? It was clearly stated last year that the survey taken in 1981 was not accurate.

Hon. Mr. Alexander: --attention to that. I have no knowledge of it right now, but after you have finished your submission I am sure someone will be able to assist us here. I do not think there has been another survey, but let us see.

Mr. Lupusella: I am as interested as the board in making an assessment of the ??real situation and I think we have to have a feedback from the pensioners to determine the extent of their economic difficulties and the reasons for their unemployment.

I cannot understand why the WCB has to do such a survey on a regular basis to monitor the effects of its activities. Also, would the board be able to provide us with an up-to-date figure for the current pensioner population at the board, considering the numbers in their annual report are already over a year old.

Hon. Mr. Alexander: I think I we have that for you, sir.

Mr. Lupusella: The 1983 WCB annual report indicates that the number of appeals heard increased from the preceding year. Appeals adjudicators solved 3,170 hearings and allowed or partially allowed 44.5 per cent of appeals decided. I think that my friend ??Claude raised the issue that if 44.5 per cent of appeals were won, maybe they were issues which could have dealt with by the claims review branch without placing injured workers into the situation of going through the process of the appeal system, which is time consuming based on the issue of the delay as well.

What the list of statistics tells me is that at all levels of the board thousands of injured workers are not receiving justice, speedily rendered. Sometimes, it seems the board is running an obstacle course for injured workers instead of a fair compensation system.

Workers have to contend with long delays in scheduling appeal hearings. A general mistrust and discounting of medical opinions obtained from family physicians and independent medical experts and the vocational rehabilitation system are often used as a revolving door to get injured workers off benefits as quickly as possible.

When I am involved in the appeals process on behalf of an injured worker, I find we must wait six to eight weeks from the date of the request to receive a copy of the case file from the WCB.

In addition we have to wait five to six months from the day we request an appeal to the actual hearing date. On top of this, the worker must again wait for a decision.

I have checked with my New Democratic Party colleagues and their assistants and they confirm that the six to eight months' delay in the appeals process is the common experience.

It is inexcusable that the injured workers are put on hold for months while they wait for decisions which will have a fundamental impact to on their lives.


I have raised my concerns about the delays in the appeals process on numerous occasions in the past. At last year's hearing the WCB denied that injured workers are waiting half to three quarters of a year for an appeal hearing and we ended up in a harangue as to whose figures are right and whose figures are wrong.

To end this situation and to get an accurate picture of the time frame involved in the appeals process, I am asking the board to provide me with statistics on appeal hearings, which might solve the situation although we might end up in disagreements as well.

3:10 p.m.

Starting with 1983, specifically I would like a list of when each appeal is requested, when it is actually heard, as well as the date the decision is handed down. Such statistics will free up once and for all...

R-1510-1 follows.



(Mr. Lupusella)

Specifically, I would like a list of when each appeal is requested, when it is actually heard, as well as the date the decision is sent down. Such statistics will clear up once and for all any confusion on the issue of appeals delays and allow us to get on with the job of providing a faster, improved appeals process for injured workers. It would also be useful to examine why thousands of claimants are denied justice at the lower levels of the Workers' Compensation Board when they find it necessary to pursue the appeals process.

In connection with the appeals question, I wonder if the board would clarify some statistics in the 1983 annual report regarding the claims review branch. We are told that of the 22,596 claims reviewed by the branch, the adjudicator's recommendation was confirmed in 62.9 per cent of claims and reversed in 4.5 per cent. I think that our criticism is fair. My question has to do with the 32.6 per cent of claims which are returned for alternate action or further review. Would you please explain why these claims are returned, what exactly is involved in alternate action or further review, how long this takes and how these cases are ultimately resolved?

In his 1983-84 annual report, Ontario Ombudsman Dr. Daniel Hill identified the three systematic problems he had observed in his dealings with the Workers' Compensation Board. One of these problems, Dr. Hill told the select committee on the Ombudsman last September, was the "reluctance on the part of the appeal board to accept expert independent medical evidence about the evidence of the board's own medical consultant."

I am glad that Dr. Hill is coming down with such a statement because last year, you will recall, we clearly stated that the board's doctors are the adjudicators, are becoming the adjudicators and the judges when an appeal is launched. I recall the discussion very vividly in my mind. Of course, you denied the allegations and Dr. Mitchell denied the allegations and actually came out with the position that even though the medical branch of doctors employed by the board give their medical opinion about the case, the adjudicators and the appeal board are the real judges of the case. We disagree with that and we have this year even Dr. Hill supporting our position.

Hon. Mr. Alexander: Notwithstanding Dr. Hill, sir, our position still stands. I say that with all due respect to Dr. Hill.

Mr. Lupusella: You have the New Democratic Party and Dr. Hill against one judgment, which is the board position. I do not know who is right and who is wrong. If you are going to weigh the evidence, we should win and you are wrong.

Hon. Mr. Alexander: That is a debatable point, sir, but we will address it further once you have finished.

Mr. Lupusella: I completely agree with Dr. Hill's observation, but my experience is that the systematic reluctance exists at all levels of the Workers' Compensation Board, not just at the appeals level.

Injured workers must wage long, uphill battles to have the WCB accept and consider for claims purposes medical reports from family physicians and specialists on work-related injuries. Unfortunately, I think this systematic reluctance can be traced to nothing else than the board's deeply cynical view that injured workers are out to swindle the WCB for all they can get unless they can prove otherwise.

Injured workers are caught in an adversarial trap if they disagree with the medical evaluations made by the board's doctors. The onus is on the worker to obtain medical evidence supporting his claim, although odds are that such independent evidence will be overruled by the board's doctors.

R-1515 follows



(Mr. Lupusella)

~~odds are that such independent evidence will be overruled by the board's doctors.~~

Board officials have tried to justify their preference for the medical opinions of their own doctors with claims that these physicians have a greater expertise in assessing disabilities for workers' compensation purposes, that they are in a better position to offer advice on the cause-effect relationship of injuries and that they are more objective and impartial than family doctors could be. I think these rationalizations are a smoke screen and I am sure the implications of medical subjectivity and partiality would not be taken lightly by those independent doctors who are treating injured workers.

Another area of concern was brought up by my colleague, Floyd Laughren, at last year's hearings on the annual report. He questioned the propriety of board doctors acting, in effect, as adjudicators. Does the Workers' Compensation Board have any statistics available on the number of times medical decisions on disability are adopted part and parcel as adjudication decisions?

New Democrats have proposed the establishment of independent medical review panels to eliminate the deadlock medical opinions at the board. These medical review panels would consist of three specialists, one of whom would be selected by injured workers. In addition, the medical review panel would be required to consult the injured worker's family doctor.

According to page 10 in the annual report, the board's two industrial disease consultants reviewed 38.4 per cent more files in 1983 than the previous year. At last year's hearings on the 1982 annual report we were told that an additional industrial disease consultant was going to be trained and added to the staff. However, there is no mention of a third consultant in the 1983 report.

Considering the fact that the caseload rose dramatically in 1983, can the board explain how the two consultants coped in making assessments of occupational disease claims and why an additional consultant was not placed on staff?

In the 1983 WCB annual report, as in previous years, we are treated to glossy photos and success stories of injured workers who have undergone vocational rehabilitation and are living full, useful and productive lives. I am always delighted to see the success stories, and if I could have my way, I would like to see such success stories for every injured worker who is referred to the board's vocational rehabilitation division. Sadly, however, behind each of these success stories there are far too many injured workers who have been failed by the board's rehabilitation program.

In 1983, 3,981 injured workers were rehabilitated. Of these, 3,188 were returned to work and an additional 793 who did not return to work were assisted in achieving financial self-sufficiency.

(Mr. Lupusella)

I was told at last year's hearings that a new record system would be in place this year in the vocational rehabilitation division and that more detailed and complete information of rehabilitation activities would be available. I have a number of questions regarding the vocational rehabilitation statistics which I hope the board will be able to answer fully this year.

1. How many of the 3,188 injured workers who returned to work will be hired by their previous employers?
2. How many returned to work at or near their pre-injury rate?

3:20 p.m.

3. How many returned to work in the same occupational category? In other words, how many found work which was unrelated or which paid considerably less than pre-injury employment and how many skilled tradesmen, for example, ended up working as watchmen?

R-1520 follows

(Mr. Lupusella)

~~... unrelated or which paid considerably less than pre-injury employment and how many skilled tradesmen, for example, ended up working as watchmen.~~

4. On average, how long a period of rehabilitation was involved? How many were provided with vocational rehabilitation programs?

5. Regarding the 793 others who did not return to work, what does the phrase "were assisted in achieving financial self sufficiency" mean? Does it mean qualifying for CPP disability benefits or welfare or family benefits? How many of these 793 men and women qualified for these nonWCB benefit?

6. What follow up exists around these rehabilitation effort? At what intervals following the return to work of an injured worker is contact made? For how long is the worker's re-employment monitored?

7. What percentage of the workers who were rehabilitated and returned to work in previous years were still working one, two, three years later? Are such figures available? Is such follow up in fact done, and if not, why not? We raised the issue last year. I can go back and read from Hansard the same questions which were raised last year concerning this follow-up process about rehabilitated injured workers.

Hon. Mr. Alexander: Sir, I think with the extent of the question, we will certainly take that particular question, with all its parts on notice and I am sure, where possible, we will try to answer each and every question you raise. I do not think we are in a position to do anything here today, but we are aware of your concerns with respect to those questions and we will get back to you.

Mr. Lupusella: We are very patient. We are quite flexible and we can wait.

Hon. Mr. Alexander: We appreciate that. We try to answer all questions that are unanswered at the committee hearings. I think that every question unanswered when we leave here, we try to look at them and get the information back to the clerk or to the individual member, as the case may be. This one we will take on notice.

Mr. Lupusella: I am raising this question, not just for the sake of raising the question about rehabilitation. You understand the importance of rehabilitation when an injury has taken place. Everyone would like to see injured workers going back to work and I think this is of prime importance for us and I am sure for a lot of members of this committee. If rehabilitation will work properly, I think the one who is going to win is the injured worker.

Mr. Lupusella

R-1520-2

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February 6, 1985

We are not using statistical data just for the sake of blaming the board and pinpoint the inability and the failure of the rehabilitation department. We are trying to be very constructive and have something in place that will monitor the situation and to see more injured workers going back to work. It is as simple as that.

If you give us the statistical data, my previous statements gave you credit to what belongs to you and to others, but we want the situation to improve for the sake of injured workers.

Hon. Mr. Alexander: We try our best to meet those requests, sir.

Mr. Lupusella: The submission listed numerous problems in the vocational rehabilitation division. Maybe there is a problem about staff morale, which was brought to the attention of the board by the Canadian Union of Public Employees' brief which was denied, if I recall, by you, Mr. Chairman, last year. Do you remember the CUPE report?

Hon. Mr. Alexander: Yes, sir.

Mr. Lupusella: They were talking about low staff morale, tense management relations, counsellors faced with heavy case loads, lack of innovative programs . . .

1525-1 follows



(Mr. Lupusella)

counsellors faced with the heavy case loads, lack of innovative programs, increased emphasis on statistical targets and goals to the detriment of the human element involved in vocational rehabilitation.

Then I give you the other side of the story about the approach, which has been used by vocational rehabilitation counsellors when they deal with injured workers, and to be frank with you, I never spent time with them on their division at the board level to support the succession of low staff morale, which has been brought to your attention by the Canadian Union of Public Employees people.

The 1983 brief from the Association of Injured Workers Group reported that most of the board's rehabilitation efforts are directed at attempting to return the injured worker to the job market as he or she now is. This is obviously a sensible approach if the disability is not serious enough to prevent a return to the pre-accident employment, either with the same employer or another employer in the same field, or if the injured worker has sufficient skills and abilities to allow him or her, in spite of the disability, to find a decent job in some new field. Unfortunately, however, more seriously injured workers do not fit this pattern.

The AIWG brief also pointed out that rehabilitation is viewed by the board essentially as a privilege which it grants to some injured workers. By and large, the current system dictates that the rehabilitation department should do as little as possible in the way of active rehabilitation to keep costs down.

Mr. Laughren: I thought you said you were going to say nice things.

Hon. Mr. Alexander: He still is, but now and again he gets sidetracked.

Mr. Lupusella: No. I am just reporting. You have to remember that the duty of an MPP is to voice the concerns of the public.

Mr. Laughren: Right on.

Hon. Mr. Alexander: How well I know that, sir.

Mr. Lupusella: That is what I am doing. I am voicing the concern of organizations that this committee did not allow to come and appear before this committee and speak about these problems.

Mr. Laughren: That is an excellent point.

Mr. Lupusella: Therefore, it is my duty to voice their concerns.

~~(Mr. Lupusella)~~

Hon. Mr. Alexander: ??duty, sir. There is no question about that.

Mr. Lupusella: I missed the point now.

Hon. Mr. Alexander: You were talking about the efficacy of the rehab department in terms of--

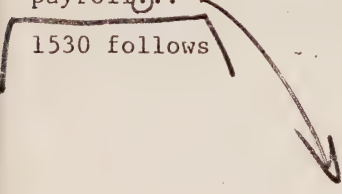
Mr. Lupusella: Yes, thank you. As I mentioned earlier, New Democrats have rejected the wage loss approach to compensation and have recommended a dual award system which recognizes both the occupational and nonoccupational losses of injured workers. We realize the all-important relation between the compensation system and the vocational training. Only by providing financial security for injured workers can we allow them to get on with their lives and create a maximum incentive to rehabilitation.

However, I realize it may be some time before WCB adopts our proposal for a dual award system. In the meantime, I would ask the board what kind of action, if any, it has taken to address and solve the numerous vocational rehabilitation problems identified by the CUPE 1750 brief. I would also ask whether the board has considered any initiatives to improve the present rehabilitation system.

3:30 p.m.

The statement of the board's unfunded liability is, according to the chairman's forwarding message, an important feature of the 1983 annual report. In 1983, the board's unfunded liability rose to approximately \$2 billion, up from \$1.4 billion in 1982. The average rate of assessment for every \$100 of assessable payroll in 1983 was \$1.88. For 1984, the average assessment rate was set at \$2.17 for every \$100 of assessable payroll.

1530 follows



(Mr. Lupusella)

~~... For 1984, the average assessment rate was set at \$2.17 for every \$100 of assessable payroll.~~

New Democrats share the chairman's concern regarding the size and growth of the board's unfunded liability. After all, we also want to ensure that the WCB will be able to meet its financial commitments to the injured workers of Ontario. What we will dispute, however, is the offensive anti-worker assumption which underlies discussions on unfunded liability. It is true that benefits have increased, and it is true that the average duration of claims has increased in recent years, and it is true that the payroll assessment bases of some industries have been reduced by the Great Recession. However, these factors did not produce the current unfunded liability alone or in any mysterious way, and I am sure my friend Floyd and I will concur that mismanagement was the main issue.

Mr. Laughren: Hear, hear. What else?

Mr. Lupusella: The key ingredient missing--

Hon. Mr. Alexander: Delete the word "mismanagement."

Mr. Lupusella: You want me to reinforce the word "mismanagement"?

Hon. Mr. Alexander: No. Delete it.

Mr. Laughren: Gross mismanagement.

Hon. Mr. Alexander: Delete the description adjective.

Mr. Laughren: Grotesque mismanagement.

Hon. Mr. Alexander: Delete that, as well.

Mr. Laughren: Inexcusable mismanagement.

Hon. Mr. Alexander: Delete that, as well.

Mr. Chairman: Mismanagement is the sore point.

Mr. Laughren: Right. I am glad you agree.

Hon. Mr. Alexander: Carry on, Mr. Lupusella. I do not want you to lose track now, but every time you say "mismanagement" I want it deleted.

Mr. Lupusella: I have been sick for 10 days.

The key ingredient missing is the Conservative government's longstanding policy of having workers' compensation provide cheap insurance for Ontario employers, while at the same time improving the system and increasing benefits to only a minimally socially acceptable level.

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(Mr. Lupusella)

Since 1975, the payroll weighted average assessment rate for Ontario employers has varied between \$1.45 and \$2.17 per \$100 of payroll. In other words, during this period workers' compensation has represented a payroll tax of between one and just over two per cent. In this regard, we should not be getting the illusion that frequent complaints of employers of skyrocketing assessment costs, nor should we regard as credible predictions about future rates. Workers' compensation has been a good deal for Ontario employers.

Accident prevention, compensation of injured workers and medical and vocational rehabilitation are expensive, but they are the costs of doing business. The more attention employers give to accident and disease prevention, the lower will be the cost of compensation. The ultimate cost of workers' compensation is largely in the hands of Ontario's employers. If they feel the costs are too high, then they should invest more heavily in prevention. Injured workers should not have to subsidize employers by receiving inadequate replacement income as a result of being hurt. This simply transfers to the victim the cost of his or her own injury, even though workers' compensation is supposed to provide no-fault insurance.

New Democrats believe that all injured workers, survivors and dependants should share the improved benefits under Bill 101 when they are implemented this year. The Minister of Labour (Mr. Ramsay) announced his intention last December to introduce a series of supplements to the ad hoc adjustments which would beef up the pensions of existing survivors under the old act, but this is simply not enough. There is absolutely no justification for discriminating against existing pensioners, survivors and dependants because injury or death occurred prior to the effective date of the Bill 101 benefits amendments.

I raised my concerns earlier about the coexistence of two compensation systems at the WCB and would appreciate it if the board could provide the details on whether and how it is preparing its staff and manuals for the transition...

1535 follows



...the assistance of a true compensation system, the assistance of the WCB and we would appreciate it if the board could provide details on whether and how it is preparing its staff and the manuals for the transition. I think I made such a request earlier.

Do you have any cost figures for this preparation and transition? It is quite possible that an existing claimant may be reinjured on the job after the effective date of the Bill 101 amendment. Has the board considered such possibilities and will it be prepared to deal with such situations?

Can the board give me any assurances that the best interest of injured workers will not be lost in their shuffle of case files between one system and the other?

Hon. Mr. Alexander: I think I gave you that earlier, sir.

Mr. Lupusella: I am sure that you stated your position that you are trying to achieve your best.

New Democrats will be watching closely and with interest as the board copes with the administration of justice to injured workers under the old act and the amended act.

Before I get into other areas of concern, Mr. Chairman--

Hon. Mr. Alexander: Your colleague wants to know when He probably he is going to get a chance.

Mr. Lupusella: Immediately. For you, Mike, I will leave the floor any time.

Mr. Chairman: We have covered 1984.

Mr. Laughren: All next week.

Mr. Lupusella: We are talking about the annual report. Mr. Chairman, I want to get into one statement which you made on page 16 of your opening remarks. You stated that the staff is able to communicate in more than 40 languages.

Although you appreciate the fact that so many employees speak in so many languages beside English, French and other languages beside the two, I am informed that the union made the representations to make sure that the employees using the third language would get more wage benefits. It appears that you are rejecting the recommendation made by the union representing the employees who work for the board. If they are using a third language beside English and French, why are they are not remunerated for doing so? I am just wondering why the board is so reluctant to give the extra benefits to the employees who are trying to make sure that the system will serve the myriads of people speaking different languages across Ontario.

Hon. Mr. Alexander: In your point there, Mr. Lupusella, are you stating that--

Mr. Lupusella: The union requested extra money, I guess.

Hon. Mr. Alexander: --because a person was conversant in both English and French or a third language--

Mr. Lupusella: A third language.

Hon. Mr. Alexander: That was not brought to my attention. I do not know ??what effect it would have on the negotiation right now. With all respect, I do not think it is proper to get into this right now. I do not know whether it has been finalized or what the position of the union is and/or the board with respect to that. You brought it to our attention, but I do not think I want to touch that, sir, because it is a part of the collective bargaining process.

Mr. Lupusella: I am not sure if the part of the present collective bargaining process or it is something which has been requested in the past and the board refused to--

Hon. Mr. Alexander: It has never been brought to my attention, sir, but seeing you, of course, indicated that perhaps it is a part of the collective bargaining process, I hope you will understand it and just let this one slide away. I think you brought it to our attention by letter.

Interjections.

Mr. Lupusella: If it is part of the present collective bargaining process, I do not want to get into it.

Hon. Mr. Alexander: That is why--

Mr. Lupusella: If this request has been made in a previous bargaining process and the board refused to accept their demand, I hope the board will reconsider the union's demand on behalf of these employees.

Hon. Mr. Alexander: Let-us have an opportunity to look at that. I think we are treading on some dangerous water here. You have given us notice of it and--

Mr. Lupusella: I hope I do not have to raise it next year.

Hon. Mr. Alexander: We will have the answer for you before next year.

Mr. Lupusella: Right. At least I am going to have the answer .

3:40 p.m.

Hon. Mr. Alexander: I am not too sure, but anyway I think you have brought it to our attention, the third language.

~~1540 follows~~

1540 follows



~~Hon. Mr. Alexander: I am not too sure of what is happening there, but anyway I think you have brought it to our attention, the third language.~~

Mr. Lupusella: Maybe you can give me some answers?

Hon. Mr. Alexander: Do you want a list? Is that what you are saying?

Mr. Lupusella: Yes.

Hon. Mr. Alexander: Mr. Chairman, I think the member for Nickel Belt (Mr. Laughren) was here. We have with us--

Mr. Haggerty: You should quit when your are ahead.

Hon. Mr. Alexander: What?

Mr. Haggerty: Quit when you are ahead.

Hon. Mr. Alexander: I guess you are right.

Mr. Chairman: Do you want the member for Nickel Belt (Mr. Laughren) to come in?

Hon. Mr. Alexander: Ask Mr. Laughren to come in because he raised some questions about our equal opportunity program and the amendment that we were involved in. At this time, we have Miss Andrea Hagan who is the co-ordinator of the human rights and equal opportunity program and who would be able to assist the member for Nickel Belt and I guess all of us. I do not see him here now and I do not want to get started without him. Is he handy?

Mr. Haggerty: --perhaps you want to get your second wind. My question deals with your opening statement where you talked about the different safety committees that were out preaching the gospels throughout Ontario about work safety habits and you were spending some \$26 million to support the work of safety associations.

Hon. Mr. Alexander: On what page is that, Mr. Haggerty?

Mr. Haggerty: That is on page 14 of your opening statement.

This is something that has been going on for a number of years now and the cost involved in trying to promote safety in industries and other places. Is there not a different approach the board should be taking a look at? I am suggesting to you--and I have said it before but I guess nobody is listening. We have discussed it in our caucus about providing an opportunity for new employees. I am talking about youngsters coming out of school with secondary and even post-secondary schooling--that perhaps the best place to put a good educational program in there is a program on occupational health in a school system.

It should be part of their curriculum. I think some of the

schools that carried a program for driver education were successful and able to assist them when they were trying for their licence. It has been a great help to them. in fact, I guess it even has reduced their insurance policies; some insurance companies will do that.

Has the board ever taken into consideration that it should be part of our educational system, that with the new Occupational Health and Safety Act that there should be a program in the schools that starts to educate them at level? Once a person gets out into the field looking for work and he walks into a strange building he does not know that much about it. He may be given two hours or one hour briefing on some safety manual that may be in the industry, but it should be for the last year of the school term or it should be even at the beginning and gradually grow into it.

We have had good hygienic programs in our secondary schools. We are talking about occupational health and I think that is the place where we should be spending some of those \$26 million.


Hon. Mr. Alexander: As a matter of fact, I am glad you raised that point because it is a factor. I think, that it is generally known--maybe it is not generally know, but I think it would be know--around the secondary schools that the mines safety associations have devised programs to inform those in secondary schools about what safety means.

Your point is well taken. They are doing that now. I was stopped by some young children yesterday--I guess they are even below the secondary school level--and it reminded me of the good old days when people wanted to get my autograph and there was an opportunity for me to tell these young who I am. They said: "We hear you are the chairman of the Workers' Compensation Board," and I said: "Do you know what that means?"

This is very good. I am glad that we had that little press conference yesterday because it gave me an opportunity to speak to some youth. They were very young and I said: "Do you know what the chairman of the Workers' Compensation Board does?" and they said: "Yes. You pay people who get hurt." I said: "I want you to go home and listen to your mother and your father. Watch when you are crossing the road. Tell you Daddy that he must be careful at the work place."

Really, I think it was an opportunity for me to touch young people; but to answer your question directly, there is no question about it, that is what the safety education associations are doing and I think there will even a beef-up with respect to the whole world of the safety associations. As I indicated to you yesterday, we have a new authority, the...

R-1545-1 follows.



(Hon. Mr. Alexander)

~~that is what the safety education associations are doing. I think~~
~~there will be even a beef up with respect to the whole role of the~~
~~safety association, because as I indicated to you yesterday, we~~
~~have a new authority. The safety education division which we had~~
in place last year has now been taken over by the Occupational
Health and Safety Authority. As well, there is an advisory council
that advises them.

If you can recall the speech, I indicated this was a
breakthrough because at long last we have a tripartite approach to
the whole question of safety education which will auger well in
the future regarding safety education in the role of the safety
education and the fact that the board has the control and will be
able to give direction to the nine, I think it is, safety
associations. So, I hope that is encouraging. I would think that
?? --

Mr. Haggerty: I suggest that to you, because I think it
is important that it probably should be even a credit in our high
schools. One of the very first things that would be brought to the
attention of a person seeking employment is, "Have you had any
credits given to you in high schools as it relates to occupational
health and work safety?"

When you look at the number of accidents that occur in
Ontario, particularly as relates to new immigrants, one of the
problems is the language barrier there. There is no doubt about
it, even when their are youngsters leave high schools and colleges
seeking employment, there is a language barrier in relation to
occupational health and safety.

Hon. Mr. Alexander: Right.

Mr. Haggerty: To my knowledge that is not taught in any
of the colleges--I am talking about new employment for our
youth--and I think that should be part of it. Because sometimes,
as I said, they are hired at General Motors and are given a two
hour course on safety and that is the end of it.

Hon. Mr. Alexander: I think Mr. John McDonald of claims
wants to have something to say at this point.

Mr. McDonald: There are two or three programs which are
going on now, Ray, and have been for a number of years. The IAPA
have a fairly extensive first-aid safety program in which they
encourage a competition all across the province, and has a fairly
extensive involvement in that area.

My own son, who is in high school, is in a semester system.
One of the things that he has this year is a life skills course.
One of the parts of that life skills course is occupational health
and safety and workers' compensation, and the role that it plays
in our community. So, there are things going on in that area and I
am sure you will see greater promotion--

Mr. Haggerty: ??

school.

Mr. McDonald: Yes. A lot of it depends on the individual school board and what they have available for the students. But I am sure you will see a lot more in that area in the future.

Mr. Haggerty: I think it is a good opportunity for us to get into this area and spend some of that \$26 million. I have attended safety award dinners. I think of one in particular that used to be the Port Colborne Quarries. They had a number of serious accidents and fatal accidents. They put on an excellent program to have their employees go into an educational program on occupational health and safety. In less than a two-year period, they reduced their accidents to just about nil. But one of the benefits to come out of that was--and management used to do it every year--management would come forward and have an annual dinner. We are looking at 50 or 60 employees and I was asked to present the award. For good safety measures or precautions that were taken, the employees were awarded a watch every year.

You talk to anybody in the industry, they will say, "It is better for us to go this way than to pay that high assessment." Maybe that is where the industry has failed. I know as much as some members here, and I have been very critical of international nickel companies, but I will tell you, they still have one of the best safety occupational health programs available to their employees, and they stress that point very well.

Hon. Mr. Alexander: I think you are quite right, sir. Since my short tenure, I have found that there are more enlightened senior management and by that, I mean the chairman of the board and/or the president. Before the direction of the interest was at a lower level. I am finding now that the chairman of the board has imprinted his thoughts with respect to safety.

There was something that was said--and I used to use it in some of my speeches--"a dollar invested in safety." This is the bottom line with the employers. "A dollar invested in safety would bring back a \$1.60 return." Knowing how management operates, not in a selfish way, they realize that any interest in safety cannot start in the middle; it has got from the extreme top and it is siphoned down. I think there has been a change in attitude and it is working.

3:50 p.m.

Mr. Haggerty: I suggest to you when you are looking at that \$26 million, it would not--

R-1550 follows



~~(Hon. Mr. Alexander)~~

~~cannot start in the middle; it has got to come from the extreme top and it is siphoned down. I think there had been a change in attitude and I think it is working.~~

~~Mr. Haggerty: I suggest to you when you are looking at that \$26 million, it would not hurt to funnel some of it into the secondary schools and even into some of the colleges.~~

Hon. Mr. Alexander: It gets a little difficult there. I guess what you are asking for is suggestions with respect to how that money can be siphoned off. With respect to this new authority we have, they are looking at the whole question of the safety education process, as we know it now, by the nine safety associations. This is the sort of thing that everyone is interested in, to see that those who are not in the work force yet, or who are about to enter the work force, are advised about creating a more safety-conscious society. I am sure, as I have indicated now, that the Industrial Accident Prevention Association, Ontario--as Mr. McDonald has indicated, because I have been to their safety association meetings--have awarded plaques to young people who have shown their skill with respect to absorbing being safety conscious. So, I think it is something that they are really looking at, and I am sure that is a fact ?? --

Mr. Haggerty: One of the important concerns I have is that members are attending the rehabilitation centre next Tuesday--

Hon. Mr. Alexander: Right.

Mr. Haggerty: If they stand up and go through some of the areas--and I thinking those persons who had lost their limbs--and take a look to see what happened. I was there seven or eight years ago and I saw a young fellow who had lost both limbs. I guess he was a brakeman on one of the yard engines in one of the industries. You sit back and think, "Why did it happen?" I do not want to see that particular fact next Tuesday, but if you would take some of the officers of the--

Hon. Mr. Alexander: I have been through that.

Mr. Haggerty: You know what I am talking about. You have seen--

Hon. Mr. Alexander: ??I hope not. ??I recognize some accept their injuries, and I guess it is the make up of the individuals. Some have a positive attitude, and others understandably do not. I think it is a question of what occurs throughout the whole therapeutic process which they have out there to try and bring back that hope of, once again, joining society, if one can, and returning to being a productive part. But I would not say--I hope you do change your mind, because you would see people out there who would give you a lot of encouragement with respect to what their future can hold. I know if I had one arm gone, or two legs gone, I do not what I would do. It is a real eye-opener and I am glad you are going out there, sir.

Mr. Haggerty: I was on the Liberal task force on workers' compensation and travelled throughout the province. We were at Thunder Bay and saw a couple of paraplegics. We saw the difficulties they had in getting around. Sure, one had a motorized wheelchair. But one of the things which really hit home to us was that the spouse who was there had something to say and she presented the brief, looking at it from the injured worker's spouse or wife's side of it. To see the hardship that she had to go through--the husband, who was a carpenter, had lost one arm--in getting out of a car and carrying groceries, and trying to unlock the door to get in, and all those things he could do around the house. She said, "I have to do all of those things."

In fact, she had to go back to work and they have a child of about three or four months' of age. Through his ingenuity, I guess it would be, he designed a new diaper that he could change with one hand somehow. I do not know what it was, but it was a technique anyway. I told him he ought to have a patent on it, but it worked out very well. He changed the door knobs in hisess it would be, he designed a new diaper that he could change with one hand somehow. I do not know what it was, but it was a technique anyway. I told him he ought to have a patent on it, but it worked out very well.

He changed the door knob on his home so he could unlock it, or get into the home just with one hand, instead of trying to hold the knob with one and put a key into the lock with the other and turn it. He designed all of these things.

The men, in both instances, would have only been too happy to get back into the work place, but being in a wheelchair, it was difficult. I know rehabilitation was active in one particular part of it. But too often we forget to look at the family structure itself, and the impact on the family as a whole when a person has lost a limbs or part of an arm. There is hardship cause just in that alone.

~~Hon. Mr. Alexander: In the hardships, sir, and I do not want to be offensive, different cultures--~~

R-1555 follows

(Mr. Haggerty)

--that you get a person who is disabled, has lost his limbs, the hardship it costs just on that alone.

Hon. Mr. Alexander: The hardship sir, and I do not want to be offensive with that, different cultures. I do not want to be offensive when I say that the man has been the breadwinner and from different cultures when that man has been reduced to let us say a nonentity as a result of an injury, it is a very traumatic experience on the family with a cultural background. I am very much aware of what you are saying and my heart goes out because I just say, "There but for the grace of God go I," and unfortunately so. I know what your concern is and I share that concern.

Mr. Haggerty: I do not know if anybody at the board level--I am sure there may be the odd one--that may take that into consideration of the difficulties a family faces and yet we do not look to saying that compensation should go beyond that.

As the wife had indicated, there were things she had to do and even though she was out in the work force there were things she had to go home and do that her husband could do before. He cannot get out to shovel sidewalks and things like that. He cannot do it with only one arm. There is no consideration of additional compensation in this area.

I think there are cases under the Workers' Compensation Act that have gone to appeal where a spouse has provided almost continuous nursing care.

Hon. Mr. Alexander: Care allowance.

Mr. Haggerty: That is right. But in this particular area, nothing. The hardship of getting into or out of a vehicle. I think of a young chap I did some work for on compensation and the board did pay for a van so he could get his wheelchair in and drive it. The person is paralysed from the waist down. He was working in a fabricating shop and some equipment came down. He is still working yet. He is a welder. They made a special bench for him so he could work there. He is only 23. Again, he has the get up and go. But for how long? Who knows.

Hon. Mr. Alexander: Right, very sad.

Mr. Haggerty: There are certain cases where these people can do it, but there are a number of cases where the injured worker he just gets down and out from the red tape. Mr. Lupusella has mentioned the delays in getting a claim, payments coming through without a hassle. They get the supplement and then somebody decides it should be taken off and they should be put on vocational rehabilitation and that does not work out that well. Then they go back on the supplement again but they are then reduced to 50 per cent. It is hard for these guys to take it.

I thought too that your opening statement might have been a misinterpretation. I will not say you misled us, but you said there were 164,000 new jobs. Looking in more detail--

Hon. Mr. Alexander: I do not think I touched jobs.

Mr. Haggerty: Well not jobs but the number of employees covered under the schedule.

Hon. Mr. Alexander: It was 164,000 or something?

Mr. Haggerty: Yes. The impression is they were new jobs.

Hon. Mr. Alexander: Oh no, I thought I said employers. If I said jobs, I do not know what page that is.

Mr. Haggerty: I thought you said employees, an indication that the economy has turned around.

Hon. Mr. Alexander: On page 22, the estimated payroll recorded by schedule 1, employers increased slightly to 41.8 billion in 1983 from 40.8 billion in 1982. The number of employers covered under schedule 1, rose to 164,000 in 1983 from 160,000 in 1982.

Mr. Haggerty: Well I got the impression that was a total new employees 164,000. But if you look at it a little bit further up from 160,000. That is the point. I thought the air should be cleared about that.

Hon. Mr. Alexander: It rose to 164,000. In other words there are 4,000 more employers involved in 1983 than what there was in 1982.

Mr. Haggerty: Not the way I interpreted it. From the comments of one of your colleagues up there, that due to the economy turnaround it was 164,000 new employers and really it is 4,000.

Hon. Mr. Alexander: That is right. I am sorry if I left that impression.

Mr. Chairman: Can we get back to Mr. Lupusella now to finish off his opening remarks.

4:00 p.m.

Mr. Lupusella: I want to get some answers later on, maybe tomorrow or next week.

R-1600-1 follows



Mr. Lupusella: ~~I am going to get some answers later on,~~
~~maybe tomorrow or next week.~~

I have another set of concerns which I would like to raise on behalf of the Association of Injured Workers' Groups in relation to a letter which was sent to the chairman of the board dated January 23, 1985, signed by Mick McCombie for the association of the umbrella organizations forming the Association of Injured Workers' Groups. I think that the request which was made by the association is a legitimate one.

Hon. Mr. Alexander: I get so many letters. Which one are you reading? What is the content of that one, sir?

Mr. Lupusella: It is in relation to the January 14, 1985 issue of Canadian Occupational Health and Safety News which carried a cover story concerning a new standardized reporting form developed by the board.

Hon. Mr. Alexander: Yes, I can recall that now. I do not know whether I have answered that letter yet, but if I can recall correctly, that was a reporting form that was for the use of employers. It really has nothing to do with the injured worker and/or employee. I do not know who else knows any more about this, but perhaps Mr.--

Interjection: Smith.

Mr. Warrington: Tom Warrington. That form, Mr. Chairman, was developed by the safety associations. I believe there was concern on the part of Mr. McCombie that our Dr. McCracken was instrumental in evolving that or being a part of that new form. That is not so.

He was call in, as was Mr. Kerr, for consultation. That committee that came up with that form was in combination with the safety associations. It was not really the board in that context.

Mr. Laughren: What is the difference?

Mr. Warrington: Right, they do these things on their own, not necessarily with our--

Mr. Lupusella: Okay, that is good enough. I would like to pursue the tone of this letter because it has a wide range of implications, beside the explanation given to me which was not affecting the injured workers.

The lead to the story stated, "Concern over poor communication among injured workers and their personal physicians and their employers," thereby identifying the three groups involved in reporting to the board. The story then details how the board, having identified three groups, decides to seek input from two of them in correcting a perceived problem. Guess which group is again left out of the consultation process: the association of injured workers.

(Mr. Lupusella)

At a time when the government has clearly indicated through the Bill 101 process the need for a greater degree of involvement by outside parties in the operation of the worker's compensation, the WCB has again ignored the views of injured workers. Neither the Association of Injured Workers' Groups, representing the coalition of injured workers' and representatives, nor the Union of Injured Workers, nor the clinics representing injured workers were consulted in this process. We are, quite frankly, appalled that the current administration continues to treat their client group with such a patronizing attitude.

A clear implication of this action is that the board considers that injured workers are totally unworthy of involvement in contributing to any improvement to the system. Several years ago, the former registrar of appeal sought input from various groups, including injured workers and their representatives, in assessing the access to files policy of the board. At that time we ventured to hope that a new enlightened era of communication had begun. Clearly, the registrar's action was an anomaly.

Hon. Mr. Alexander: That is correct.

Mr. Lupusella: Beside the issue, I bring it to the attention of the chairman in relation to the issue of the Canadian Occupational Health and Safety News which was involving the employers in relation to the form, they are complaining about poor communication and injured workers being left out of the process when a decision--

R-1605 follows

son
(Mr. Lupusella)

R-1605-1

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...was involved in the employee's relation to the firm. They are complaining about poor communication and the injured workers being left out of the process. When a decision is made by the board, there are other people consulted, but the associations of injured workers, the affiliated organizations representing injured workers, are rarely consulted. I am wondering why such procedures are consistently applied. They are a very well recognized group.

Hon. Mr. Alexander: I do not know where you get the idea that we do not consult or that we do not meet. I just met with them within the week.

Mr. Lupusella: Are you denying the content of the letter?

Hon. Mr. Alexander: I am trying to explain, as stated by Mr. Warrington, that we had nothing to do with that. This was a matter brought up by the Council of Safety Associations which was devising a reporting form from the employer to the doctor. We were called in. I do not know why we were called in, but I do not want the impression to be left--in that letter--that here again is further proof that we do not consult the injured worker--

Mr. Lupusella: That is why--

Hon. Mr. Alexander: We had nothing to do with it. That is what I am trying to tell you. Mr. Reilly will carry on from there. I reply to the letter. Unfortunately, they misinformed about what the board had to do with respect to that situation.

Mr. Lupusella: You appreciate my position. There was no reply coming from your office, so I did not have any idea where the ?? in relation to the issue. I did not have your side of the story--

Interjections.

Hon. Mr. Alexander: I am glad you brought it to my attention so that it can be cleared up. I sent out an acknowledgement. Their letter came in--when did it come in--January 22. My reply went quite quickly, January 23, and it went to Mr. Barlow. I acknowledged it on January 25, and I said, "You can be assured this matter will be brought..."--I was not around. I guess that was Miss Giacometti--"You can be assured this matter will be brought to his attention upon his return, and you will no doubt have a response to your request in the near future." I had intended to look into the matter--no, wait a minute. That is another one.

Mr. Lupusella: I will bring the other matter.

Hon. Mr. Lupusella: Here it is. I received it on--I cannot tell the date--I acknowledged it on January 25. Miss Giacometti wrote to Mr. ??McCracken on January 25, and I have not had an opportunity to get the reply. It is being drafted for my signature. You have asked what it is all about, so you know what it is all about, and the reply will be similar to what the explanation is here this afternoon. We have nothing to do with it. Mr. Reilly wants to add something further.

Mr. Lupusella: Last year--this is clear evidence that the criticism I brought to your attention last year was not even heard by the board. If I have to reply--you know that person, Giacometti--I do not know who she or he is--

Hon. Mr. Alexander: It says on the top of the letterhead, "Miss L. Giacometti."

Mr. Lupusella: Okay, in this particular instance, there is--

Hon. Mr. Alexander: There always is with my correspondence.

Mr. Lupusella: --because the letterhead shows it comes from your office, but if the same letter were coming from different branches of the board, one would not realize what the name was and how to reply to that person.

Hon. Mr. Alexander: Are you talking about Miss, Mr. or--

Mr. Lupusella: Whatever.

Hon. Mr. Alexander: I have that same problem, but I think that on the letter you receive from the board, there are titles--there are certain people at the board who have personal stationery. I do not know where it stops. I guess it is with executive directors. After that, I am not too sure. When people from the board write to injured workers or representatives there is a designation of their title on either the left or the right after they sign. I do not follow the point.

Mr. Lupusella: The point is that in this letterhead, you can easily the classification, "executive assistant to the chairman," and "Miss L. Giacometti." In other correspondence there is no denomination around the name.


Hon. Mr. Alexander: It is probably down at the bottom of the letter.

Mr. Lupusella: In so many letters, there is just the initial, a given name, and the family name and nothing else.

4:10 p.m.

Hon. Mr. Alexander: All right. Then your point is well taken, but I think we all have that problem. I do not want to get involved with the Department of National Revenue with whom I have been in contact of late. I resent the way they do it. They do not even sign anything. They just send you a form of something or another, but what we--

(R1610 follows)



~~(Hon. Mr. Alexander)~~

~~...all have that problem. I do not want to get involved with the Department of National Revenue, with whom I have been in contact of late. I resent the way they do it. They do not even sign anything. They just send you a form something or another.~~

Mr. Laughren: Only to tax evaders.

Hon. Mr. Alexander: No, no, sir. I am just trying to tell them they were wrong in their assessment of the old chairman. I am right in the long run, too.

In any event, I think I know what you are saying. But, once again, I say that I think that most if not all of our letters have some designation on the bottom. Not everybody has that luxury of having their title at the top of their letter.

Mr. Lupusella: Your office has that but most of the departments of the board do not have it.

Hon. Mr. Alexander: I do not know where it stops.

Mr. Lupusella: I do not know myself.

Hon. Mr. Alexander: Here is a sample of a letter to Mr. Haggerty.

Mr. Haggerty: Always obliged to help.

Hon. Mr. Alexander: No, no. It gives the name of the person. A portion of the time it says Mrs., sometimes it is only T. Smith. I have a problem trying to know if it is Mr. Ms. or Miss. This one says T. Lucaze (Mrs.), supervisor of appeal services appeals.

Mr. Lupusella: I do not think it is silly. If you had to make comments in a letter which I addressed to you and you are unable to realize who this person is, whether he is a male, female or what.

Hon. Mr. Alexander: That one said Mrs.

Mr. Lupusella: To some there is. I am saying now that there is no denomination.

Hon. Mr. Alexander: I admit your point is a good point because I get frustrated, if you will, with other government agencies when I cannot determine to whom I am supposed to write, whether it is a Mr., Ms. or Mrs.

Mr. Lupusella: I doubt you cannot determine whether it was Ms. or Mrs. I want to know.

Hon. Mr. Alexander: I am, because I have the letter.

Mr. Lupusella: I have to mention whether that person is a male or female, so at least I do not make mistakes about that.

Mr. Chairman: Do you sign your letters as Mr. T. Lupusella?

Mr. Lupusella: Tony Lupusella.

Mr. Chairman: Okay. That does it.

Interjections

Mr. Laughren: Could I have a supplementary on this?

Hon. Mr. Alexander: I think Mr. McDonald brought to our attention a letter which shows that your concerns have been addressed by the board. Why do you not admit you are wrong?

Mr. Lupusella: As a classic example it says: "T. Lucaze (Mrs.), supervisor of something. Now you know that is right.

Mr. Lupusella: I do not do that.

Mr. Chairman: Mr. Laughren would like to clarify everything by asking a supplementary.

Mr. Laughren: I would like to go back what started with the form. What is this form I hear about? Does the board have a copy of this form?

Hon. Mr. Alexander: I do not know. Perhaps Mr. McDonald can answer that.

Mr. Laughren: Does it have one?

Mr. McDolnald: Yes, sir.

Mr. Laughren: Can we see that?

Mr. McDonald: Yes, sir.

Mr. Laughren: Tomorrow or Tuesday?

Hon. Mr. Alexander: Yes, we will undertake to give you a copy of the form.

Mr. Laughren: I would be interested in seeing the form. That is what is causing the problem.

Hon. Mr. Alexander: I think the problem is that certain people thought we were ??--the injured worker. We had nothing to do with it, sir.

Mr. Laughren: No, I am not interested in that. I am just interested in seeing it.

Mr. Warrington: You are under the impression that this is a replacement or a major change to forms 7 and 8 in particular. In fact it is not. It is a new form altogether that involves the medical doctor and the employer that was devised to give additional information.

Mr. Laughren: Very good.


Mr. Gillies: It is Mr.

Mr. Reilly: The form, by the way, was a joint effort between the Ontario Medical Association and the Council of Safety Associations. The purpose of the form was for employers to advise the attending doctor of what work would be available and the type of duties that the person could return to work to so that the doctor could use his judgement as to whether the person would be able to go back to that particular function.

The form was designed in conjunction with those two groups. Dr. McCracken and Mr. Kerr did see the form because we have a committee that has met in the past with the Ontario Medical Association. It was through that we saw the form. But it is a form designed jointly by those two groups to be used by the employer to advise the attending doctor. It has nothing to do with the injured worker as far as the worker having to fill in the form, or anything else, absolutely nothing.

Mr. Laughren: Heavy on the Mr. Does Mr. Kerr and Dr. McCracken still work for the board?

(Tape R-1615 follows)



~~(Mr. Reilly)~~

~~... the worker having to fill in the forms or anything else,~~
~~absolutely none.~~

~~Mr. Laughren: Do Mr. Kerr and Dr. McCracken still work~~
~~for the board?~~

Mr. Reilly: No.

Mr. Laughren: Neither one of them?

Mr. Reilly: This is back about a year and a half ago, or whatever it was. This is not yesterday.

Mr. Laughren: But do they work for the board? Are they employed by the board?

Mr. Warrington: Dr. McCracken ?? to the appeal ??

Mr. Laughren: He is still employed by the board?

Mr. ??: He is paid by the board, is that what you said?

Mr. Laughren: That is what I asked, yes.

Mr. ??: Yes, he is paid by the board.

Mr. Laughren: Mr. Kerr has retired and freelancing out there?

Mr. ??: I cannot answer for Mr. Kerr, Mr. Laughren.

Mr. Laughren: Sort of a WCB executive's heaven. The Senate to the WCB. The reason I ask is this whole question of--

Mr. Haggerty: ?? patronage.

Mr. Laughren: Do not mention patronage in the presence of Mr. Alexander.

Hon. Mr. Alexander: I do not mind. I understand it and so do you. If and when you are ever fortunate enough to enjoy the luxury of power, you will be doing the same thing.

Mr. Gillies: Tony will be the chairman then.

Interjections.

Mr. Lupusella: For friends my name is Tony.

Mr. Gillies: We will be over here and questioning you.

Mr. Lupusella: I will keep you under control.

Mr. Riddell: George Samis will be the first candidate.

Mr. Laughren: The reason I asked the question about Dr. McCracken and Mr. Kerr is how they would become involved with the safety association?

Mr. Reilly: Back several years ago we had what we called a problem-solving committee between the board and the Ontario Medical Association. There were certain problems on the payment of medical aid payments and the like. This committee was formed to deal with this problem for the association. In the course of that, this form did arise and I believe I was there or I did see the form at that time. I would say this must be two years ago because Mr. Kerr has been retired for the last 18 months, so that it must be at least two years since that form came into existence.

Mr. Laughren: It leads me to ask another question: What are the rules or the guidelines on WCB executives who retire? Are there any rules on who they go to work for then, such as there are at the political level?

Hon. Mr. Alexnader: This was raised last year and I thought we said we would look into it. I know that what is happening in human resources right now, as I understand it, there is a whole revision of guidelines or conflict of interest guidelines, if I can use that expression, which is being devised in order to delineate what you can do and what you can't do.

At the same meeting here, I think Tim Armstrong also said that we must look into the ??Crown Employees Act or whatever, to see whether their guidelines would fit us.

Mr. Laughren: But right now there are no restrictions?

Hon. Mr. Alexander: I do not really think there are any restrictions. Mr. Cain says there is a policy and maybe he would volunteer that information. I am not sure.

Mr. Cain: I am simply saying I believe there is a policy or one is in the process of being developed.

Hon. Mr. Alexander: That is what I said, a policy is in the process of being developed because it was raised here last year by Mr. Mancini.

Mr. Laughren: I am just concerned about--

Hon. Mr. Alexander: I think there should be some sort of guidelines, whether it is under the ??Crown Employees Employment Act, or something, to say who can do what after they sever a relationship with the board.

Mr. Laughren: What flashed before my eyes was a picture of Mr. ~~22Domborough~~ heading a thing called rehab department.

Mr. Lupusella: I would like to bring to your attention--

bm
3:20 p.m.

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February 6, 1985

Hon. Mr. Alexander: May I interrupt for a minute. I brought one of my officials over here because of a question raised by Mr. Laughren and I would not want her to leave after sitting here for a couple of hours, and that is with respect to the whole equal opportunity program. Mr. Chairman, do you mind if Andrea Hagan comes to the front to discuss--

1520-1 follows



js
(Hon. Mr. Alexander): after sitting here for a couple of hours and that is with respect to the whole equal opportunity program.

Mr. Lupusella: Fair enough.

Hon. Mr. Alexander: Do you mind, Mr. Chairman, if Andrea Hagan comes to the front in order to discuss--

Mr. Laughren: Who is this?

Hon. Mr. Alexander: Andrea Hagan.

Mr. Haggerty: She is one of the 38 per cent.

Hon. Mr. Alexander: She is the co-ordinator of the human rights and equal opportunity program at the board. I do not think she was here when you said that and I tried to tell you that my executive assistant was a woman and the secretary of the board is a woman and there are a number of breakthroughs.

Mr. Laughren: I was asking the chairman--"chiding" the chairman is a better way of putting it--about the number--every year when the Workers' Compensation Board appears before the standing committee we are surrounded by grey-suited males. It seemed to me that there must be at the senior levels of the board some women, given the way society out there is changing and the way there is a consensus in society that this must not be allowed to continue and that women should be filling these senior roles in places like the Workers' Compensation Board.

We did not think that changing the name from "Workmen's" to "Workers" was adequate and that there should be further changes. The chairman, in response, said that there were, indeed, changes and that he was proud of the changes at the board. We ended up by agreeing that we should then be able to have names attached to the organization chart on page 4 of the annual report of the WCB so that we could have a sense of how dramatically the changes were occurring and that way, not sit in judgment on, but be able to commend the chairman for the changes that are taking place at the compensation board.

Does that bring you up to date on why you are here?

Ms. Hagan: Yes, it does. To respond to that, I think the figure of 38.92 per cent has already been raised as the representation of women in the management and senior administration scale at the board. To further define that, what we have done is divided up that scale so we have a representation of who is in the bottom level, the junior level, who is in the middle level and who is holding the senior level which you referred to. They would be the people who perhaps would be on this chart.

To break that down, what we have is, in 1983, 57.9 per cent of the junior management and senior administration scale was held by women. In the middle level--

Mr. Haggerty: That is unfair, is it not?

Mr. Laughren: Wait for it, Ray.

Ms. Hagan: In the middle level, the representation of women is at 30 per cent.

Mr. Laughren: Is that better, Ray?

Ms. Hagan: At the senior level, the representation is at 12.2 per cent. Although, if we were to put the names on this chart, there would not be many women's names on these charts in that among the positions such as executive director there are not many positions held by women at that level, if you look one step below that level, you realize that there are women in that position and that women are making progress towards the top management level at the board.

That is demonstrated by the 1983 breakthroughs. I do not know whether you are familiar with the use of the word "breakthrough."

Mr. Laughren: Not in this context, I do not think.

Ms. Hagan: To share that with you, breakthroughs include hires, transfers, promotions and/or reclassifications which contributed to an improvement in the board's occupational status or distribution of women employees. In 1983 one of our breakthroughs took place at the senior level and another five breakthroughs took place at the middle management and senior administration scale level.

To add on to that, our 1984 statistics show that there is an increase in each one of those breakdowns of that management and senior administration scale. In addition, there are an additional six breakthroughs. Two of those breakthroughs are at the senior level and four are at the middle level.

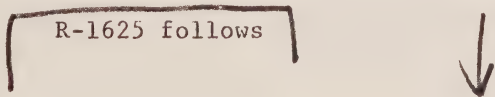
Mr. Laughren: Do we know what percentage of women who are employed at the board of the total employment there?

Ms. Hagan: Yes, of all the employees within the organization, women make up 63.1 per cent of the represented employees.

Mr. Laughren: That is total?

Ms. Hagan: That is everyone in the organization.

R-1625 follows



Ms. Hagan:

-- within the organization women make up 63.1 per cent of the represented employees.

Mr. Laughren: That is total.

Ms. Hagan: That is everyone in the organization.

Mr. Laughren: How long has there been this womans co-ordinators position and how long have you been there?

Ms. Hagan: I have been there since April 1983. The position has been in existence since 1975. It has changed its name as it has added on different activities to the program.

Mr. Laughren: I understand you are not responsible for assignments--at least I do not think you are--and for determining who has these senior jobs. You are there to promote the--

Ms. Hagan: To facilitate.

Mr. Laughren: To facilitate.

Ms. Hagan: That is correct.

Mr. Laughren: I understand that. If you were to put names on this chart, would it be easy to do? Do you know all these people? Who is in charge of each of these areas? I think it would be unfair to ask the chairman to list who is in charge of well, something like actuarial services. I would not expect the chairman to know that.

Hon. Mr. Alexander: He was talking about unfunded liability yesterday.

Ms. Hagan: That is correct. As I understand it, your question is could I put names to the people in here and yes, I could to a certain extent. If you look at the appeal adjudicator level which is under the registrar of appeals.

Mr. Laughren: I cannot find it.

Ms. Hagan: The right hand side. There are two women in the position of a fields adjudicator.

Mr. Laughren: How many adjudicators are there?

Mr. McDonald: There are 16.

Mr. Laughren: Are these the ones who travel around? Yes, I have met one.

Ms. Hagan: ??

Mr. Laughren: You should not have asked. I have forgotten now. Anyway I appeared before one in Sudbury.

Ms. Hagan: Within actuarial services there is also a breakthrough in that area. There is an actuarial analyst. Now, I do not have a listing complete of all women in the senior position.

Mr. Laughren: What I was really wondering is how many--I understand where it says adjudicators, that is a number of people. The titles that are on here, for example, assistant general manager and you get into something like financial services division. That is not a person, not a title. It is a division. I understand this part makes it difficult in that way. That is why I originally asked the chairman for an organizational chart of the board that had the actual positions on it, divided and divisions. I assume that would not be difficult to provide to the committee.

Hon. Mr. Alexander: I think we can get that. I do not know how long it will be or how thick it will be. It will depend on how hard down on it you want it.

Mr. McDonald: Do you just want this chart with the names on it?

Mr. Laughren: No. I will give you an example. I do not want to confuse the issue. Under appeals adjudicators to use the example and Ms. Hagan used. Is there someone in charge of adjudication?

Mr. Warrington: Yes.

Mr. Laughren: Who is that? What is it called?

Mr. Warrington: Manager of appeals adjudicators.

Mr. Laughren: That is you?

Mr. Warrington: No.

Mr. Laughren: Okay, that is really what I am saying.

Mr. Warrington: Of the three manager positions in appeals and that is one of them, two are women and one is a man. You have identified the one male.

Mr. Laughren: When did I identify the male?

Mr. Warrington: I just identified the manager of appeal adjudicators. The question you asked, was a male.

Mr. Laughren: Why is this so difficult? Or maybe I do know why and I do not want to know. All I am asking for and it is quite common in organizations to have an organization chart with the senior division on it with the director or manager or whatever of each division.

Hon. Mr. Alexander: You want it down to the manager level.

Mr. Laughren: Yes.

Hon. Mr. Alexander: All right.

Mr. Laughren: Thank you. I feel I have just made a breakthrough.

Hon. Mr. Alexander: We will get that for you Mr. Laughren. I do not see any problem with that.

Mr. Laughren: Thank you. I am very glad you are there.

Ms. Hagan: Thank you.

Mr. Chairman: Thank you very much. It is now 4:30. We will come back tomorrow morning at 10 o'clock when Mr. Lupusella can wrap up his opening statement.

The committee adjourned at 4:30 p.m.

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R-86
(Printed as R-50)



STANDING COMMITTEE ON RESOURCES DEVELOPMENT

ANNUAL REPORT, WORKERS' COMPENSATION BOARD, 1983

THURSDAY, FEBRUARY 7, 1985

Morning sitting.

Draft transcript

STANDING COMMITTEE ON RESOURCES DEVELOPMENT

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VICE-CHAIRMAN: Villeneuve, N. (Stormont, Dundas and Glengarry PC)

Havrot, E. M. (Timiskaming PC)

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Lupusella, A. (Dovercourt NDP)

McKessock, R. (Grey L)

McNeil, R. K. (Elgin PC)

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Substitutions:

Gordon, J. K. (Sudbury PC) for Mr. Villeneuve

Haggerty, R. (Erie L) for Mr. Reed

MacQuarrie, R. W. (Carleton East PC) for Mr. McNeil

McCaffrey, R. B. (Armourdale PC) for Mr. Havrot

McLean, A. K. (Simcoe East PC) for Mr. Watson

Pollock, J. (Hastings-Peterborough PC) for Mr. Yakabuski

Clerk: Arnott, D.

From the Workers' Compensation Board:

Alexander, Hon. L. M., Chairman

Cain, D., Associate Secretary

Haugh, G. A., Executive Director, Communications Division

McDonald, J. F., Executive Director, Claims Services Division

Reilly, R. D., Assistant General Manager, Executive Division

Warrington, T. D., Vice-Chairman of Appeals

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON RESOURCES DEVELOPMENT

Thursday, February 7, 1985

The committee met at 10:10 a.m. in committee room 1.

ANNUAL REPORT, WORKER'S COMPENSATION BOARD, 1983
(continued)

Mr. Chairman: Committee members, we will begin. We parted yesterday with Mr. Lupusella probably in the latter stages of his response to Mr. Alexander's opening statement. We will carry on from that point, Mr. Lupusella?

Mr. Lupusella: Mr. Chairman, I think I brought to the attention of the chairman some of the letters which went to his attention. There is another letter which is related to public education at the Downsview Rehabilitation Centre which was a letter sent to your attention and later on you forwarded the same letter to the attention of the chairman. This letter is coming again from the Association of Injured Workers' Groups. It is signed by Brian Cook.

Generally speaking, the contents of this letter emphasize that this group have particular access to the Downsview Rehabilitation Centre to make sure that they will have an opportunity to talk to injured workers about changes in the act.

I think that is a very useful and educational reversal, even though I understand very well how strongly the chairman feels about this particular issue, that he does not want to see this disruption taking place within the particular institution. I am sure he is of the opinion that, if access is going to be granted for this particular purpose, eventually the social environment will be jeopardized up there. I do not know if I am interpreting your feelings correctly, but I think that is where you stand.

Hon. Mr. Alexander: You are getting close.

Mr. Lupusella: At any rate, there was no particular reply to this letter even though I understand your office is working efficiently. This letter was written on January 22, 1985.

We all understand it is important that injured workers should be educated about Bill 101. I think that, within the principle of the law, the law must admit ignorance. If we are living in a society, I think we have to make sure that ignorance will disappear, and not because injured workers are not willing to learn the process or because they are rejecting the principle of learning the law, they do not have access to resources to know the principle of the law.

The Association of Injured Workers is a bona fide association. I think, from time to time, access is going to be granted, with some limitations involved in order that order will

(Mr. Lupusella)

be maintained within the principle, and particular public relation coming from this organization is going to take place in hours where the therapy programs, interviews and meetings with patients and doctors is not at stake, I think that their request should be granted.

I understand the concern of the chairman of the board, as I stated previously, but I think that, with certain guidelines and regulations involved, their request should be granted

(Tape R-1015 follows)



(Mr. Lupusella)

~~guidelines and regulations involved, the request should be granted.~~

Hon. Mr. Alexander: Would you like me to direct my attention to that particular matter now? Yes, you are right, they did write to me on the date of January 22. My executive assistant acknowledged it on January 26 and the matter has been brought to my attention.

You have indicated that this makes sense. I suspect you have conveniently forgotten that this is only one organization. I could name a number of organizations, including the law profession, who are a little miffed. The last time we had a problem--not like this, but another organization wanted to use, at that time, the hospital and rehabilitation centre--that became a real concern of ours and therefore we had to approach the Ombudsman in the long run, because he was brought into the picture, and we set down certain guidelines.

This is no amphitheatre, this is no place where the general public can use it as a means of furthering their own particular ends and I say that without any malice aforethought. This is a rehabilitation centres, people are out there giving therapeutic treatment and all forms of treatment, in order to see to it that they are returned to the work force as early as possible.

Here we have one group, out of countless numbers of how many I do not know within Ontario, who say they would like to go. Why? The letter, as I read it, they want to inform the patients, if you will, who are at Downsview Rehabilitation Centre. You know they move in and out--I think the optimum time is something like 19 weeks--and I think, because of the expertise we have--I guess I am replying to this letter now.

I had a feeling it was going to be raised because I know they pass these things on to you because you are their spokesman, more or less, and I do not mean that in a very offensive way. I was going to answer it so I guess I might as well answer it now.

However, before giving you my final thought on it, I want to bring Mr. Gordon Haugh here, who is the executive director of communications and whose job it is to, not only within the board, to let the board personnel know what is happening now with Bill 101, but, as well, seeing to it that the whole province knows what Bill 101 means to employees, to employers, the possible injured workers and, more particularly in this instance, with respect to what we are going to do at the hospital.

We have a process being developed, which I think will bring commendation from you, because we realize this is a very, very important step in the compensation system. It is one that has not happened before, as far as I know, a real massive change and it is incumbent upon the board and, as well, the ministry--where is Mr. Gillies?

Mr. Chairman: He may have an appointment.

Hon. Mr. Alexander: In any event, I think it is incumbent upon us, as the board, in the first instance, to brief everyone who can possibly be involved with the changes under the bill, which includes people at the Downsview Rehabilitation Centre. I think we have the expertise, I do not think we have ever fallen short with respect to briefing people on the outside about changes and how the act works.

We have people at the board who are continually moving across this province. I do, as well; I intend to speak. I do quite a bit of that, as you know. When the bill is proclaimed in April or July, I will be going across this province advising people, going on radio and TV, attending forums on request or those that we can possibly arrange.

Until such time as you find out we do not have the capability, we do not have the expertise or that we are falling short with respect to the mandate we have in terms of communication, I would hope you would allow us to get on with the job which I think is properly ours. I do not know what the Ministry of Labour has to do in this regard but I think they would perhaps have a role.

After all of that, I see Mr. Haugh sitting at the table--

10:20 a.m.

Mr. Lupusella: Before he makes any further comments, and because you are already denying, for your own reasons, access by particular organizations ...

(Tape R-1020 follows)



(Mr. Lupusella)

~~is going to make further comments because for your own reasons you are already denying access to particular organizations for the purpose, which has been described in that particular letter. If I can make a suggestion to your plan--my friend, Floyd, would call it a "reasonable amendment."~~

Hon. Mr. Alexander: A reasonable amendment.

Mr. Lupusella: But that is not part of the legislative process, so it will be a reasonable suggestion which I would like to make.

I know that you are doing your part and the board is doing its part to give employers across Ontario--

Hon. Mr. Alexander: And others.

Mr. Lupusella: I know that you are doing this job--

Hon. Mr. Alexander: Well, okay, and others.

Mr. Lupusella: --and that you are doing this job well.

Hon. Mr. Alexander: Well, thank you very much.

Mr. Lupusella: You see, I am even giving an compliment.

Hon. Mr. Alexander: Thank you very much.

Mr. Lupusella: The board has also been calling seminars to brief employers about the system, about papers--

Hon. Mr. Alexander: And others.

Mr. Lupusella: --and other matters.

Hon. Mr. Alexander: Always add the "and" to this, sir, because I see what you are doing but you have to be open and frank with this ??committee.

Mr. Lupusella: Is there any way that the board will undertake a particular task to do the same thing with injured workers across Ontario? I do not think that my request is unreasonable, because if you are going to do that, there is no need for the particular organization to have access to the rehabilitation hospital. If you will accept my suggestion and my recommendation--when the board will do that--you have to invite representatives of injured workers to talk to injured workers about the system, about the new law and about legislative changes, and so on. Am I asking something unreasonable?

Hon. Mr. Alexander: I think that is a suggestion we are giving very serious consideration. What you have indicated to us is that in our travels we should have, by way of advertisement, radio, TV ?? local areas, that the board personnel--well, they are going to be in the city of Hamilton.

Mr. Lupusella: Okay. I accept that proposal.

Hon. Mr. Alexander: Everyone is invited to come, so forth and so on. I will just say that is worthy of serious consideration, but I would like to say what Mr. Haugh has to say first before I--

Mr. Lupusella: I would like to make an extra addendum to this serious consideration.

Hon. Mr. Alexander: Another addendum. All right.

Mr. Lupusella: Beside the advertising process which you are eventually going to make to alert injured workers that the board will be at a specific location talking about the new law, talking about the system, and so on, can you make sure injured workers will receive a notice in their cheques that such events will take place? It is fair enough. Instead of paying money to the radio and to television, which can be done as well, I think that a letter to injured workers with specific notice--

Hon. Mr. Alexander: I do not know about the logistics of what you are saying.

Mr. Lupusella: --and advising injured workers' organizations to see if they so wish to participate. I do not think what I am asking for is extremely unfair.

Hon. Mr. Alexander: No. It just depends on what the logistics are, sir. We are sending cheques out periodically, weekly, monthly and so forth. I do not know whether that is possible. Let us say that is something we shall also consider. I cannot say yes to that now because I am not too sure of just how this will work.

In the meantime, I have Mr. Haugh, who has heard all the representations from you and from me with respect to this. Mr. Haugh have you got anything which you could tell us regarding the communication division?

Mr. Haugh: Yes. First of all, in answer to Mr. Lupusella's first and primary question about any particular group putting a seminar on at the rehabilitation centre, or at any other board premise, we have got an obligation not only to the 700 people who might be at the centre on that day, but to all the injured workers in the province to inform them of what is in the bill, not only people who are going to be injured after April 1.

The primary problem I think you are addressing and that we have recognized is the problem to deal with those injured workers who had their accident before Bill 101 comes into effect and for whom the changes are more subtle. They are not the kinds of things--let us face it--An advertising program that deals with Bill 101 is going to talk about the change to 90 per cent of net and the kinds of features of the bill, if you like. But the changes that are for the people who are already injured are a lot more subtle, a lot more difficult to communicate, but it has to be...

(1025-1 follows)

(Mr. Haugh)

~~a lot more difficult to communicate, but it has to be done--~~ the people who have been rejected benefits because of the Canada pension plan problem and now perhaps are eligible, the older workers who perhaps now have an eligibility things have to be communicated to those workers.

We looked at the various programs that were available and we did look at messages in cheques. In fact, the communications division designed a number of messages to go in to cheques, keeping in mind that we have to use a minimum of four languages for any message--English, French, Italian and Portuguese, which are our primary languages--have to be in any message and the message has to be understandable. One of the problems we faced in trying to design that message was that in any given cheque run, people are affected by different parts of the law, so you cannot make a blanket statement. You are going to get a five per cent increase on April 1, because as you know that does not affect everybody, because the ceiling is not changing. The Canadian pension plan provision does not affect everybody. So we did not want confusion among the injured workers; we wanted to explain it in a way that was understandable and we felt a message on the cheque, because of the limitations of space and the number of languages, could cause confusion.

The solution that we are building right now is to use what has become a pretty wide medium in the province, the cable television community stations. We are putting together a video tape program which will be done in four languages and will be available to those stations, which talks to the people who were injured prior to April 1, about the changes that may affect them. It will be advertised locally as it is available, as we get the schedule from the cable companies. Although as is usual with cable companies, we hope it will be repeated and we may not necessarily be able to advertise every program because, as you know, they use those again and again and that is to the advantage of everybody.

We will be attempting to get the schedules so we advertise whenever we can when that program is going to be on the local networks. Cable does not cover the whole province. We know that. We get tremendous co-operation out of some of the stations in the areas where there is not cable and we are going to try to make sure that program is run. We will try to look at the coverage. If it is not there, then we were certainly be going out personally to run conferences. To run a conference in an area--and even if it is advertised--we may get as broad a reach as we think we can get by using the electronic media in that way.

So that is the program we are putting in place. We think it is going to be very effective. Certainly we are going to have to gauge the understanding and the reaction following the use of that medium and if it is not effective, we will be using something else.

(Mr. Haugh)

Our problem is we do not want to have to take the amount of staff time that would be involved to explain to every injured worker who comes in, all the ramifications of the bill. We want to do that in a public way, using cable television and using the advertising medium, so that when people come in, they are familiar with their rights under Bill 101, and we can get directly to solving the situation that they bring to us. So, that is the focus of the program directed at those workers. Of course, that is not all the advertising we are doing with regard to the changes, but that is what we are directing at.

Mr. Laughren: That does not answer his question.

Mr. Lupusella: I support this prime approach to make injured workers knowledgeable about the changes, but what I am asking for is the direct contact between the board and injured workers. As I stated before, the chairman and the representatives of the board have this direct contact with employers through seminars, and so on. I would like the same process to be implemented for injured workers and the injured workers' organizations to be invited as well as to speak.


Mr. Haugh: Sure.

Mr. Lupusella: I am not denying what you are doing, or I am not rejecting this prime approach which you are using, which is the media contact. But on top of that, I would like you to also do what I have been suggesting because I think it is a fair game. You are doing that for the employers and injured workers should get the same service.

10:30 a.m.

Mr. Haugh: I would like to just correct something. You talk about running seminars for employers on an ongoing basis. We only run seminars for those people who ask us to run seminars. Because the list is so long, we are not going out all the time looking for speaking platforms. At the present time, I have got a list in front of me of invitations we are trying to fill; the Food Retailers' Safety Group, the Injured Workers' Consultants of Toronto, College of Universities and Schools Safety Council. Then we get down to the United Auto Workers, the Annual Ontario Conference of the UAW, the United Steelworkers' of America. Then we are in to companies again; the employees of Wardair and--

R-1030 follows



slk
(Mr. Haugh)

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February 7, 1985

...then we get down to the UAW, the annual Ontario conference of the UAW, and the Steelworkers Union; then we are into companies again, the employees of Wardair and Warren K. ??Cooke. We are getting a diversity of invitation that we are trying very hard to meet all the demand and, as you know, the demand is very high. It is a time of change. By no means is the list limited to employer groups by any stretch of the imagination.

Mr. Lupusella: Of course, you have your plans of communication; employers is one project.

Mr. Haugh: The employers are very important because you have to know about paying for the day of the accident. That is a message we have to get out. We are going to start getting that out with a very intensive campaign starting the middle of March because the employer, as you know, is responsible for paying the day of the accident for benefits and salary.

Mr. Lupusella: Do not go too far away about the payments and premium coming from the employers because I am talking on behalf of the victims of an accidents. I am not placing any blame--

Mr. Haugh: That is why they are victims.

Mr. Lupusella: If the employer was responsible for the accident or not. I think we should play a fair game here.

Mr. Haugh: We are, sir. But that is for the victims, as you know. The day of the accident has not been paid before. The employer is responsible for paying for the balance of the shift and the benefits for that day. That message has to get out very clearly. Workers are entitled--

Mr. Lupusella: Am I denouncing that approach? No. It is part of a long-range program. I am not criticizing that approach or rejecting the approach. I am asking something extra for injured workers. I am approving what you are saying and doing but I want to injured workers to have a form with the board and ??injured workers will be briefed and informed about what is happening in relation to Bill 101. It is as simple as that. The message is very clear. My recommendation has been very clear as well.

Hon. Mr. Alexander: Mr. Lupusella, let us just hear from Mr. Doug Cain, who has been involved with injured workers representatives in the past couple of weeks and unions as well regarding the same point that you are making now, sir. The representatives have asked us to brief them about the implementation of Bill 101 and I believe we have done that. Mr. Cain, will you try your best at this time, I know you can help us out with this matter.

Mr. Cain: Mr. Lupusella, in the last month the counsellors in Mr. John McDonald's division have met with the United Auto Workers for two days to describe Bill 101 and explain it so that they, as representatives of injured workers can assist them in their claims and also carry the message of the bill to their seminars.

(Mr. Cain)

In addition I have no doubt, as Mr. Haugh just mentioned, we are going to be having seminars with this union and others to describe Bill 101 across the province so they can keep their injured workers informed. It is a very effective way of getting to the injured workers through their representatives.

As far as the Industrial Accident Victims Group of Ontario is concerned, twice in the last month we have met with them. Mr. ??Van Kleef and myself and actuary met with them to discuss Bill 101 and I am sure we are going to meet with them again. On a second occasion we met with them on appeals in the new structure to give them an understanding of what is happening so that they can go back to their members and talk to them.

There are things that have happened in the last month. I know there have been other speaking engagements outside the board. The board has every intention of going to the injured workers directly and through their representatives so their representatives can go to them. I really do think we are doing it and will continue to do it because it is very, very important, just as you said.

Mr. Lupusella: Again, as I have stated, I have not been critical of the activities which you are pursuing. I am endorsing what you are doing. I am not placing politicians on that particular forum because we do not want the process to become partisan. We want to make sure that injured workers will be briefed.

Hon. Mr. Alexander: We are going to try our best to do that.

Mr. Lupusella: I am going to invite myself. If the board is going to speak to injured workers, I would like to be present. Our main goal and the board's goal is for injured workers to get the message.

Hon. Mr. Alexander: We are going to try our best, Mr. Lupusella to meet that objective. I think that is an objective that we cannot ignore because the complexities and ramifications are so immense that it is incumbent upon us to try to brief as many people as we possibly can but particularly the injured worker⁶.

R1035 follows

...that it is incumbent upon us to try to brief as many people as we possibly can but particularly the injured worker. Rest assured, Mr. Lupusella, you can come back next year or as the case may be and say, "Mr. Alexander, you failed because you did not do what you undertook to do." I am giving you my undertaking now that with respect to the process and the plan that we are going to have, we are going to try our best to see to it that the objectives which you have placed before us are met.

Mr. Lupusella: You previously stated that you were going to give a consideration to my suggestion and recommendation about reaching the injured workers, having the board present and the representatives of injured workers.

Hon. Mr. Alexander: I am only concerned about seeing to it that the injured worker is informed somehow or other. I think Mr. Haugh has tried to indicate the steps we are determining right now that should be taken. There will be other steps but the bottom line is: "How best can we reach the injured worker?" With all the submissions you have made, we are going to take all of that into consideration because we both want to meet at the end of the day with this same thought, "Have we reached the injured worker?" That is our responsibility--

Mr. Lupusella: Without playing politics. I did not place politicians in the middle.

Hon. Mr. Alexander: I am playing politics?

Mr. Lupusella: Without playing politics.

Hon. Mr. Alexander: Oh, without playing politics. No, this is a serious matter. I have to find out what Bill 101 means. I have been briefed up to a point. It is not only within the board but primarily on the outside and have a little faith--

Mr. Haggerty: If the chairman has a problem just think what the average lay person--

Hon. Mr. Alexander: That is my point, sir. And I am a lawyer too. I understand what you are saying but have a little confidence in us in this regard because I think we will be able to meet your objectives.

Mr. Chairman: Before we move on Mr. Haggerty had a supplementary.

Mr. Haggerty: I just want to add a supplementary to the question. I cannot understand where the difficulties would be. I suppose this is what is lacking with the workers' compensation with public relations. I do not think advertising it on television is going to hit every employee or worker in Ontario. I do not think it is going to get the point if you advertise it in certain newspapers.

(Mr. Haggerty)

I thought the workers' compensation had set an example in 1978 in the amendments that took effect on July 1, 1978. This is a summary of the compensation act. You should be able to come up with a pamphlet with the proposed amendments with a little scenario or preamble to it saying: "This is what we think will take place. This is how the act should act." You could give an example of an injured person or a person who was injured before this comes into effect and the effect it will have on him. There is no reason why you cannot produce a pamphlet like that and send it out.

Hon. Mr. Alexander: With every amendment, we have produced a pamphlet. I do not have a copy of our latest amendment's pamphlet here but it is produced every time there is an amendment. It is widely circulated. It has the changes as is laid out in there.

The pamphlets that are being prepared now for the changes to be available April 1, the first one is ready now and it is going to get wide circulation. That is coverage for domestics. There is a registration form in there for the employers. It explains both the rights of what the employer has to do and what the domestic workers' rights are. It is the first one we have in terms of what we are putting out.

We have completely revamped all the board publications because obviously the changes in Bill 101 substantially change the way we do business. They are being done in three levels of information, if you like. One level is at its most complicated with a longer more manual oriented pamphlets that we have not had, quite frankly, in the past. If you are familiar with the book that labour does in terms of a summary of the Employment Standards Act in some of those books, we are doing one of those books with regards to the Workers' Compensation Act.

10:40 a.m.

We are then doing pamphlets of a less complicated nature but still fairly well-explained the rights and obligations under the act. Then we are doing what we call a sales brochure, which is a short, quick look at the act. All of these brochures are being done in English, French, Italian and Portuguese. Some of them in addition will have Spanish and Greek, as we have done in the past.

The work is going ahead...

R1040 follows



(Mr. Haugh)

~~.. All of these brochures are being done in English, French, Italian and Portuguese. Some of them, in addition, will have Spanish and Greek, as we have done in the past. The work is going ahead.~~ I will be pleased to get you for this afternoon the last amendments brochure, which I think is similar to what you just gave the chairman, which we have produced every time there is an amendment. It lays out what has changed, what the new benefit rates are and what you are entitled to, as the amendments come out.

Certainly we are concerned about it. We are revamping the entire printed pamphlet line, and those will be available, but we do have to use the television and newspaper advertising.

One of the problems we face with workers' compensation, unfortunately, is nobody ever thinks they need workers' compensation until they have an accident, and so we have to get to people before they have an accident so that they know what they have to do if they have an accident, which makes the whole adjudication process a lot easier, if it is reported on time and the proper reports are sent to the board on time, as you know. We have got a concern in that area, too, but please rest assured that the pamphlets are being done. They will be understandable, and they will be in the languages of the workers.

Mr. Lupusella: I never saw a pamphlet in a doctor's office, for example, where patients are going, so you make sure that all doctors are going to get notification of the changes?

Mr. Haugh: Yes. The doctors are on our list of ??publics that have to be circulated this information, as are unions and workers in company--whatever organizations we can find are certainly being mailed this information either individually or in bulk pieces, as we get closer to April 1.

We have certainly looked at doctors' offices, and we would like the pamphlets to be available there, if we can. We have sent them out in the past, and there has not been a great pickup of them, if you like. We did a poster about a year ago, which we put in all hospital emergency waiting rooms that basically said, "Injured at work? Let us know," because that is one of the problems, as you know. Somebody comes in to the doctor or comes to the hospital, and does not say, "I was hurt at work," so the report does not go forward. Those went out, and they have been somewhat successful, although in some institutions they are already down, and we are going to have to put them out again, but it is to encourage people, to make sure the treating agency knows they were hurt at work and a report should be filed to the board.

Mr. Lupusella: There is another point I would like to add to that. I know that family physicians and specialists have forms, doctors' reports when an accident has taken place, and I know that one way of advising the board as to whether or not an accident took place is either through the employer, through the

(Mr. Lupusella)

claimant or through the family doctor. Can you make sure--unless this process is already in place--that the family physician and the specialist will have their employees' accident reports, as well? In other words, when an injured worker is trying to claim compensation and the employer did not send a report in and so in, and goes to the doctor maybe three or four days later, and the family doctor or the specialist writes a doctor's report to the board, can you make sure that he has also the employee's accident report so he is aware that an accident took place in his opinion, so he can give out a report to the injured worker and he can fill out the form?

Mr. Haugh: I think that is probably an excellent suggestion that we certainly can have Mr. Reilly bring up with the Ontario Medical Association liaison committee to see if there is a way that kind of a procedure could be put in place. I think it is a very good suggestion, Mr. Lupusella.

Mr. McDonald: I am sure you are aware, Mr. Lupusella, in a large majority of our claims we do not request a report from the injured worker. In addition, the percentage of the injured workers who make up the patient population of a doctor is very small compared to his overall population, so to provide him with an ongoing supply of reports, which in many instances are redundant, I do not know how valuable that would be because the percentage is not there.

Mr. Lupusella: I am sure that the process will not hurt the whole process of compensation. I think that you might have fewer visits from injured workers coming to the board and the request for the employee's accident report because he never got it, and I think...

1045 follows



(Mr. Lupusella)

...I think that you might have fewer visits from injured workers coming to the board and the request for the employee's accident report because he never got it, and I think it saves time, as well, when the injured worker is coming in the board's office and someone might say, "You have to fill out this form before a decision is going to be rendered. We understand that we never got the employer's accident report." I am sure that it saves time, considering the whole process of the claim per se, and I am also sure the board will have fewer visits from injured workers coming down to request that particular form. In trying to improve the system, I think you should take my recommendation into consideration.

Mr. Chairman: I think it is agreed that with somebody who has to be top priority with the board that the communication, the terms of Bill 101--and if you are satisfied that that is being taken into consideration, perhaps you can move on.

Mr. Lupusella: On page 11 of the chairman's opening statement there is a paragraph related to employers: "In 1983, the employer was granted full access to the file in 95 per cent of cases." I understand the meaning of the statement, but I want further clarification. Are you trying to state that full access to the file included all medical information, as well?

Hon. Mr. Alexander: I would say except that which was harmful.

Mr. Lupusella: ??say here. That is why I am raising the question.

Hon. Mr. Alexander: I think the very principle involves documentation, and I guess it is primarily medical reports that could be harmful to the injured worker. Those things are not given to the injured worker personally, but rather, passed on to the treating physician or the general practitioner. He then would have the responsibility to pass on that information which we think is harmful.

With respect to the file as it would apply to the employer, the harmful matter would be out because we feel that is not an appropriate document that should be in the hands of the employer; but the rest of the file, if I read correctly, as long as the file is relevant to the issue in dispute, then it meant that the whole file would be given to the employer. I think what happens in the first place is that the employer was very concerned about the fact that the injured worker was getting the file and he was not getting the file because his was more or less restricted to the relevant issues. There was some thought on the part of the employer that would mean he would not get very much of the file, if anything, but it happened to turn out that he would get all of the file and, therefore, the concern that the employer had in the first instance has been just eroded.

Mr. Lupusella: I get the impression that you are trying to use the machiavellian approach in your statement, "In 1983, the employer was granted the full access." You are not mentioning partial access to the file. Let us be clear. "Full access" means it was not partial access in which the medical reports that were harmful and so on were not released. "Full access" in my own interpretation, unless my friend Floyd will correct me, means that he had full access including all medical information.

Hon. Mr. Alexander: Anything that was relevant.

Mr. Chairman: Do you agree with that, Mr. Laughren?

Mr. Laughren: I want to wait until I hear the end of the statement.

Mr. Lupusella: Then you go on--

Interjection.

Mr. Lupusella: So full access to the file was granted in the range of 95 per cent of the cases, which gives me the hint that five per cent of the total request was not granted for the reasons you just mentioned, for medical reasons or where harmful and so on. This is my own interpretation. What is your interpretation?

Mr. Laughren: That sounds very reasonable to me.

Hon. Mr. Alexander: It sounds reasonable to me, as well, but let us have clarification from one who knows, Mr. Warrington.

Mr. Warrington: Mr. Lupusella, you are quite correct except that on top of the so-called harmful information, there may be other medical reports on file that have no relevance to the man's condition, and--

10:50 a.m.

Mr. Lupusella: As you know, I have been very critical...

1050 follows



~~You are quite correct, except that on top of the so-called harmful information there may be other medical reports on file that have no relevance to the man's conditions.~~

Mr. Lupusella: ~~As you know, I have been very critical~~ in the past where medical information, in general, is given to the employer. It appears that full access to the file in the range of 95 per cent of the cases, just to give us a breakdown figure on the use of the full access to the file in principle and it appear that the board has been quite generous to release the whole file to the employers.

Mr. Warrington: Quite simply, sir, the majority of our files are not the kind of files that you and I see so often on appeals that are four and five inches thick, they are really four or five pages of reports. That is the majority of files. When an issue does come up those reports pertain to the issue at hand and the employer is given access.

Mr. Lupusella: In the past I made the argument that if the employer is opposing the recognition of the file--

Mr. Warrington: Do you mean opposing entitlement?

Mr. Lupusella: Entitlement to the claim, I am sorry, not to the file. If the employer is opposing entitlement to the claim means that he is of the opinion that no accident or injury took place.

Mr. Warrington: Correct.

Mr. Lupusella: It is my opinion that he should not have any particular access to any medical report because the issue in dispute has nothing to do with the medical aspect of the claim.

Reading the content of this statement, full access means that you gave evidence.

Mr. Warrington: That is correct.

Mr. Lupusella: I disagree with this approach.

Hon. Mr. Alexander: Because all of it was relevant to the issue which was brought forth by the employer. In other words, I think you have to look at the word "relevancy". If you will notice, Bill 101 has adopted a policy of access with some added protection therein so the same thing still exists.

Mr. Lupusella: No. We are talking about Bill 101 and a specific clause that deals with the protection of certain medical information.

Hon. Mr. Alexander: That is right.

Mr. Lupusella: But you are dealing with the present use of the act up to now. When I read the statement that employers

across Ontario had the full access to the file in 95 per cent of the cases, this means that any particular issue which was in dispute before the board they got everything from the file.

Hon. Mr. Alexander: No, Mr. Lupusella--.

Mr. Lupusella: With the exemption of five per cent--

Hon. Mr. Alexander: That is right.

Mr. Lupusella: --you have been very generous with the employers in giving out the file.

Hon. Mr. Alexander: Not generous, we are following the policy, sir. You have forgotten the word "relevancy" and that is part of the policy. It just happens to be that everything in that file and those 95 per cent of that were relevant to the issue in dispute.

Remember the word within the policy. That same word is now in Bill 101, "relevancy," and the "harmful" as well vis-à-vis the injured worker is also in Bill 101.

Mr. Lupusella: I am not disputing the content of Bill 101, I am talking about the present act. That is what we are dealing with in 1983. You have been very generous with the employers in giving them full access to the file. I am sure, for being so generous, they have got medical information which eventually they were not supposed to get because the issue before the board had nothing to do with medical information.

Hon. Mr. Alexander: That is your opinion without knowing what is in a particular file ??has been disclosed.

Mr. Lupusella: I have my own experiences.

Hon. Mr. Alexander: On the other hand, I could tell you that the injured worker gets the entire file. Mr. Warrington will check for me, I think there are only 34 or 35 times--

Mr. Warrington: Thirty one.

Hon. Mr. Alexander: --31 times that we have found information in that file that was harmful to the injured worker so those were taken out and, I guess, forwarded to the general practitioner to let him advise the injured worker.

Mr. Lupusella: I do not have any problem with the second aspect of the situation.

Hon. Mr. Alexander: The employer has the same right, only the word "relevancy" is in the policy and now in the act.

Mr. Lupusella: I presented an appeal six months ago and the issue before the board actually was an employer's appeal. He was disputing before the board that no accident took place in the course of the employment.



(1055-1 follows)

ja
(Mr. Lupusella)

The employer had all the medical reports with him. That is what I am trying to make sure will not happen. If the issue had something to do with an accident that never took place on the premises of his or her own employment, why did the board disclose all medical information which had nothing to do with the issue? He has had all the medical information.

Hon. Mr. Alexander: The medical report--check me if I am wrong as I am not involved with it day to day, I am sort of thinking of ??--wouldn't the medical report at times give indication as to where and if an accident happened?

Mr. Lupusella: No. When you are disputing the principle as to whether or not an accident took place, the entitlement to the medical reports are no considered by the board until there is a recognition of the accident.

Hon. Mr. Alexander: Excuse me, sir, I am not well versed in that.

Mr. Lupusella: Am I correct or wrong?

Mr. McDonald: I think you are wrong, sir.

Mr. Lupusella: Why? Explain.

Mr. McDonald: Quite often the doctor in his report will give the history that has been given to the worker as to what occurred to cause the disability, in effect, a history of accidents.

Mr. Lupusella: Yes, but if the employer is found to deny that the accident ever took place.

Mr. McDonald: The information from the doctor is in support of the injured worker's claim and the employer should be aware of that support.

Mr. Warrington: Exactly.

Mr. Lupusella: Okay. Let me give you the opposite side and I will show you that you are wrong.

When the board is denying a claim because an accident never took place and the injured worker is appealing before the board, in my own experience before an adjudicator and before the appeal board, they do not want to hear anything about the medical report because the claim has not yet been established for payment. There is no recognition that an accident took place and you do not get into the principle of the medical reports because you have to demonstrate first of all that the accident took place.

Mr. McDonald: I would use the doctor's statement to support that an accident was reported to him.

Mr. Lupusella: It does not work in that way in my own

experience.

Mr. Cain: Mr. Lupusella, it does. Just as Mr. McDonald said, we look at the accident report to see when the worker went to the doctor in the first place. Perhaps he went the next day and reported the same history of the accident to the employer. That is support for the injured worker. He went for medical treatment the next day and gave the same history of accident.

Second, there is another important point. When you are looking to see if an accident ever occurred, you are looking to see if there is a disability, what is the diagnosis, can that type of disability this worker is suffering be related to the history that is provided. That is what an adjudicator goes through when they are adjudicating. It is up to the employer to look at those things in access and perhaps, hopefully, say: "He went to the doctor the next day and gave the same history to him that he gave to me. Apparently, according to the memos on file, that diagnosis can be related to that kind of accident, therefore I think there is a relationship." That is what you are striving for.

Mr. Lupusella: About that information when an injured worker went to the doctor, I agree with you that should be taken into consideration.

Mr. Cain: And it is.

Mr. Lupusella: I am talking about within the infrastructure of medical evidence. They are not relevant when you present an appeal because you have to demonstrate first of all that the accident took place and then you get into the medical aspect.

Mr. Cain: Do you not, Mr. Lupusella, before a hearing point out to the adjudicator that this person went to the doctor the next day, reported the same history of accident, look at the diagnosis, it appears to be related. If you point that out then the employer, legitimately I would say because of access, has a right to know that information. I would expect you will properly use it as support for you position.

Mr. Lupusella: You are talking history of the accident and you mention the doctor to take into consideration the time framework when the injured worker went to see the doctor or the specialist. It is true what you are saying and what the gentleman is saying, why are the appeals denied although there is clear medical evidence that the family physician or specialist state that the physical conditions are related to an accident and the board denies the recognition of the accident that took place.

Mr. Cain: I can give you no explanation in any individual claim why that occurred because there are so many circumstances, but I am saying that is one very important circumstance.

11:00 a.m.

Mr. Lupusella: You cannot have it both ways. At any...

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Next

(Mr. Cain)

...individual claim why that occurs because are so many circumstances. What I am saying is that one very important circumstance.

Mr. Lupusella: You cannot tell it both ways. At any rate, I raise my concern. I have reservations about his full access to the file given to the employers.

The other aspects which I would like to bring to your attention is that recently there was another appeal coming from an employer. As you are aware, the employer has to follow the same routine of the appeal system as does the injured worker. The issue goes before an adjudicator, before the claims review branch, and so on.

I noticed that on that particular reply to the employer for this specific appeal, which is going to take place in the near future, the claims review branch gave five pages--I never saw it like that before--of explanation about the issue to the employer. There was particular reference to the way in which the employer was supposed to deal with the issue, the remedies which she had in case he was supposed before the adjudicator.

There were five pages. I have never seen that for an injured worker before in which they were explaining the law in detail, what was supposed to be done. In other words, the employer was already briefed in all respects of the appeal. I am sure he did not even need the disclosure of the file with the letter because he knew exactly what he was supposed to say before an adjudicator.

There were five pages. I hope the same thing will be done for injured workers from now on. I do not have anything against that, because I said that ignorance before the law is not excusable. But if you brief an employer about the law, about certain sections of the act, and so on, I think that is good. I hope you will do the same thing for injured workers.

Hon. Mr. Alexander: I hope Mr. Cain can answer that. I cannot see us briefing the employer without briefing the injured worker, but Mr. Cain will assist us here.

Mr. Cain: I do not dispute at all that a five-page letter went out. Frankly, sometimes five-page letters go out to injured workers. It is far too long and, I would say, in most cases totally unnecessary.

What we do have, and it is the rule in the branch, and each person in the branch has it, every letter, every decision that goes out has to contain four or five things. It has to state the issue. It has to state the policy or the section of the act that this issue is related to. It has to then state the facts that are in that file and, finally, it has to state the conclusion. That should occur within two pages, two and a half at the most. On some occasions it goes far too long.

Mr. Lupusella: At any rate I never saw five pages. The issue of that particular case is that the employer was trying to counteract the medical reports and payments to the injured worker. I have never seen anything like that to an injured worker. I guess that employers are extremely briefed on the decision taken by the claims review branch before proceeding with the next appeal before an adjudicator. They know everything.

Mr. Cain: There is no policy in the claims review branch, of which I am the director, to tell them to give the employer more than the injured worker. On the contrary, if it happens one way or the other, the injured worker will get more. I assure you I would not countenance that kind of policy.

Mr. Lupusella: If that is the case I hope you will do the same thing for injured workers.


Mr. Warrington: I might add, Mr. Lupusella, that only 7.25 per cent of employers appeal issues against their employees.

Mr. Lupusella: I understand that. In that particular case there was even the suggestion that he had a remedy to request that the claim would be charged to the second injury parts. This particular information was in the five-page letter.

Mr. Warrington: Regarding a pre-existing condition?

~~Mr. Lupusella: Yes. So I was given the alternative.~~

(Tape R-1105 follows)



~~(Mr. Lupusella)~~

~~...charged to the second injury parts. This particular information was even in this five-page letter.~~

Mr. Warrington: Regarding a pre-existing condition?

Mr. Lupusella: Yes. So the alternative was given to the employer as to what he was supposed to request before the adjudicator. Do you want a copy of the letter? I can go upstairs and get it.

Hon. Mr. Alexander: I think Mr. Cain has adequately explained it.

Mr. Warrington: Yes, I would like to see it.

Mr. Lupusella: It is before the appeal system. The chairman is going to accuse me that I am going to jeopardize the result of the appeal.

Hon. Mr. Alexander: Oh no, sir. I am listening because this is all new to me.

Mr. Lupusella: Last year, because I mentioned a particular claim, you said: "You should know, you are a legislator, you should know you cannot bring forward an issue which is in dispute before the board out here before the committee." Are you going to say the same thing if I want to bring it out?

Hon. Mr. Alexander: I am trying to understand what document you are talking about. Are you talking about a decision that was handed down, the decision was sent out and it is a five-page decision or, on the other hand, was it a letter that came from one of the operating divisions advising the employer in terms--

Mr. Lupusella: No, it was not a letter.

Hon. Mr. Alexander: It was a decision.

Mr. Lupusella: It was a decision from the claims review branch. In fact, the next appeal now is before the adjudicator. The employer has all the framework done in that particular letter. He knows what he has to ask before an adjudicator.

Mr. Laughren: Because the board did it for him.

Mr. Lupusella: Yes.

Mr. Laughren: It is strange is it not?

Mr. Lupusella: If you want to see it I will get it.

Hon. Mr. Alexander: Yes, I would like to see it to find

(Hon. Mr. Alexander)

out what you are talking about.

Mr. Lupusella: Do you want me to read it into the record as well, or are you going to blame me again?

Hon. Mr. Alexander: Sir, whatever would make you feel that you have accomplished something. I cannot tell you what to read, or what not to read, but I would like to know what you are talking about in terms of the document. It is a decision, I guess, that was handed down.

Mr. Lupusella: A decision: No, it was not correspondence between the employer and the board. I would not have raised the issue if it was in that particular vein.

Hon. Mr. Alexander: Would you like to send me that decision. I know that you do not have it now. I will have it looked at with the comments you made to determine whether we are doing the right thing or, as you say, we are bending over backwards to brief the employer to let him know what he is supposed to say.

Mr. Lupusella: Five pages: I was shocked.

Hon. Mr. Alexander: If you want to release the decision I will certainly have the officials look at it.

Mr. Lupusella: It is too late because the appeal is going to be in April.

Hon. Mr. Alexander: But you still have a point regardless of whether the appeal--

Mr. Lupusella: You cannot withdraw that letter now.

Hon. Mr. Alexander: No, we are not going to withdraw the letter but we would like to see, not the letter, the decision in order to see whether your objections have any validity. I think that is what I am asking.

Mr. Lupusella: There is validity because I have never seen such a decision in five pages.

Mr. Chairman: Before we leave that point, Mr. Haggerty has a supplementary.

Mr. Haggerty: I just want to raise a question about equity within the appeal system following what Mr. Lupusella has been discussing.

What is the board's policy as it relates to an appeal where you have the company, industry or firm that will come in and present a blueprint, or a drawing of the particular where the accident happened? It has been said that they are bringing evidence such as this in this area.

(Mr. Haggerty)

What evidence can an injured worker supply in that area? I was making an appeal just recently. The injured worker, through the union, had taken pictures of the--

Hon. Mr. Alexander: Work place?

Mr. Haggerty: --environment that the person had been in where he was crawling underneath conveyors. The person representing the industry, such as hiring consultants who come in to represent the industry, was rather offended because these pictures had come forward. He objected to them at that level. He said that he did not think it should be permitted.

I can site a case of appeals where pictures were brought in of a steamship vessel where the person was working in around the galley. It was accepted there. What is the policy in that area?

11:10 a.m.

When I look at some of the field staff that you do have where, before they make a decision and send in a report to the board for investigation, that sometimes pictures of the accident itself, or in the vicinity of the accident, would be perhaps most helpful for the adjudicator to base his decision on. You get people with a back problem and they say: "Well--

(Tape R-1110 follows)



(Mr. Haggerty)

...of the accident itself, although in the vicinity of the accident, would be perhaps most helpful for the adjudicator to base his decision on. When you get people with back problems, and you say, "Well, it is light work that he does," but when I looked at what this fellow had to do around chutes, the elevated part itself, conveyers and that, he was down on his hands and knees working all the time. Every time he raised his head, he was hitting the frame of the conveyor. He was in a cramped position, for example, to shovel spilled flour from a chute that had to be put back into a container. I do not know what your policy is in this area.

Mr. Warrington: Let us try to find out. With regard to the evidence, you said the employer representative objected to this evidence but surely the adjudicator accepted it or the appeal board, whichever you were appearing before.

Mr. Haggerty: I do not know, but he was going to make an issue on it. He said, "You have no right to bring those picture here."

Mr. Warrington: That is absolutely incorrect.

Mr. Haggerty: Wait a minute. He may be right to a point to say that if anybody is going to take pictures, it should be the industry. You may have a trade secret there and somebody has been taking a picture. It could get out. Just what is the policy? It is something he did bring to my attention that could have consequences that could follow.

Hon. Mr. Alexander: You threw a little hooker in there by saying pictures taken in around an area that could reveal a trade secret. What Mr. Warrington is indicating is that any evidence which would help an adjudicator and/or claims review at their level or the appeal board I would think is admissible. This is an inquiry system. It is not a court.

The bottom line is we want all of the evidence so that the adjudicator and the appeal board will have everything at their disposal in order to hand down a just decision. I can see why someone may want to object to the introduction of a picture, but I would hope that those who are either in the claims review branch or in the initial adjudication end or the appeal adjudicator or the appeal board would overrule that objection and say, "I need to see this because this helps me in order to determine what I am going to do with this particular case." I do not know if I am off the beat Mr. Warrington.

Mr. Warrington: You are right on. That is exactly right.

??Hon. Mr. Alexander: Then the evidence would be given whatever merit it deserves.

Mr. Haggerty: The appeal is still pending now because of another factor that came in. Because of the event that took place with the pictures, there was another accident. The company said there was ??not. Through their work records, he did report to the foreman that he injured himself and he still worked the rest of the shift. He could not go back into work the next day. They did some research into it, and they said, "Yes, it was reported that day."

Hon. Mr. Alexander: I would think that any picture is admissable, but as you pointed out, if the employer said, "Now, wait a minute, I am not having any picture put on your desk which shows something within our plant that we call highly confidential and restricted." The person who is sitting in would have to determine whether that employer does not have a point or not.

Mr. Warrington: Or go and visit the plant. We have done that on occasion.

Mr. Haggerty: It is the same thing as the committee meeting in here. You could be in camera. It is the same thing. It is only open at a certain time. Could the employee himself put his job in jeopardy because he took those pictures?

Hon. Mr. Alexander: I have no answer to that question. I would think--

Mr. Haggerty: It is an area that I think we should be looking at.

Hon. Mr. Alexander: --if any employer was to come down hard on an employee as a result of the employee trying to get the evidence to bring before this board, I think we would take a very dim view of that because what we are seeking is all the evidence, and the best evidence, so that we can adjudicate the claim.

Mr. Haggerty: Maybe in cases like this where they clear the air, that there is no further outside court action in this particular area, maybe your staff in your regional offices, when they go out to make a check to find out if there was an accident, they should have the right to go in and take pictures of it.

Hon. Mr. Alexander: I do not know whether they do. I see Mr. John McDonald.

Mr. McDonald: They do have cameras available to them and they carry them on occasion, when they feel that is indicated.

Mr. Lupusella: May I continue?

Mr. Chairman: Back to you, Mr. Lupusella.

Mr. Lupusella: In 1982-83, this committee was sitting during the summer to review Professor Weiler's report and the government white paper ..

R-1115-1 follows



(Mr. Lupusella)

...1982-83, this committee was sitting during the summer to review Professor Weiler's report and the government's white paper, and from these two reports a new creature came out, which was Bill 101.

Between that particular stage, the committee developed a report on that particular study, Professor Weiler and the government white paper, and members of this Legislature were concerned about certain issues, administration of the board and the operation of the board. There were several recommendations. The Liberals and the New Democratic Party wrote a dissenting report.

Hon. Mr. Alexander: I am aware of that.

Mr. Lupusella: I understand that when we are dealing with the principle of the law, it is up to us to enact the law, but the resources committee report in 1983 was very extensive, complete and touched on different angles of the whole operation of the board. Even though all the recommendations were not accepted by the government, we pinpointed certain loopholes in the administration of the operation of the board. Did you have an opportunity to review the content of the resources committee report and did you develop new strategies as a result of the concerns raised by different member of the committee?

Hon. Mr. Alexander: I think what you are referring to is the standing committee on resources development final report dated December ??9, 1983.

Mr. Lupusella: Yes.

Hon. Mr. Alexander: We have the report. I am sure the officials at the board looked at that report in order to determine whether there was anything in there that was not offensive to the principles which you were speaking to with regard to a final Bill 101 that they could adopt with regard to making the administrative structure more acceptable to you with regard to discharging its mandate. To answer your question, from the time that Weiler was involved, and any reports that came out, we also received those reports and the board from the day that Weiler was involved has been making its plans, has been trying to determine the process which would be envisaged by the end result which is Bill 101.

Within that context, where we could move, we would move. Where we could not move, we could not move, because it would depend on the bill itself. In other words, it has been an ongoing process of consultation, upgrading, impacting, enhancing to see that what we can do now, as long as it was not offensive to the bill, could be implemented.

Mr. Lupusella: I understand. You are perfectly right about certain principles in the recommendations which were supposed to be incorporated within the bill and enacted by this Legislature. I do not have the report in front of me, but there was a general discussion about administration, policies and the new approaches which were recommended by several members of this committee. I am just wondering if you had an opportunity to review the recommendations which were part of--

Hon. Mr. Alexander: The short answer is yes.

Mr. Lupusella: --being implemented by the board without any specific legislative action, and what kind of action did you take?

11:20 a.m.

Hon. Mr. Alexander: I am glad you added that, that would not be offensive to the bill itself, I would say that anything we could do which would impact upon our administrative capabilities was done, or is being studied, to try to bring it about. In other words, this is information for the edification of the board. I have looked through them myself and I would say that those who are in charge throughout the board with regard to varying divisions look at this to determined, "Well, they have had a debate on certain issues within the committee, can we move in that direction without offending the end result"?

R-1120-1 follows



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(Hon. Mr. Alexander)

look at this to determine, well, they have had a debate on certain issues within a committee; can we move in that direction without offending the end result. I would say that all those things have been considered.

Mr. Lupusella: Was there any particular group employed by the board that got the mandate to review the content of this report and report to you and the corporate board for implementation of it?

Hon. Mr. Alexander: I cannot tell you the group itself but I am sure that Mr. Cain could explain that to you, or Mr. MacDonald. Just what was the approach taken when the report of the standing committee was tabled?

Mr. Cain: When the report was tabled, we ensured that there were sufficient copies to go to all the senior people at the board. They read them and, where possible, things were acted on, as you say, that were not in contravention to the current act or so forth. As you can imagine, there are a number of things in here that really nothing can be done about. For example, we have a proposal in here that we go to 90 per cent of net.

Mr. Lupusella: We are not interested in that.

Mr. Cain: Obviously, that was not the--but, for example, I think that this report no doubt reinforced the recognition that everyone wanted more workers' advisers. The issue here was, to whom should the workers' adviser be responsible? We could not do anything about that. They are responsible to the board currently.

What was addressed was that there could be more workers' advisers. I am almost positive there has been one or two more added since this report came out. It is that kind of thing and it is difficult. If you will give me the time I will be happy to go through it and identify it with you. They are small things in some cases--sometimes a little more than that--but little things chosen and said "Yes, people really are pushing for that. They think that is a worthwhile thing. Perhaps we can do that." Workers' advisers is one example.

I must admit, off the top of my head, I cannot remember the others.

Mr. Lupusella: The reason why I am raising this issue is that the committee per se dwelt with length with the principle and the revision of important reports like the Professor Weiler report and the government white paper. I want to make sure that we understand the particular distinction of something which is pertaining to the principle of the law and we have Bill 101. I do not want to make any particular reference to that. I am going through. If you need time to answer this particular question, I would be pleased to hear from you or from the chairman.

There are several statements made by the report which have to do with the policymaking process of the corporate board, which

(Mr. Lupusella)

can be easily implemented by top officials of the board, the chairman included. I cannot go clause by clause at this point, but I was suspecting that after all the work which has been done by this committee and after having an opportunity to hear so many injured workers and employers' representatives and coming out with this report, the board had an opportunity to appoint a group of people to study the contents of the report and make sure that certain principles would be implemented without the legitimate mandate of the legislation. I am talking about two separate things.

As you stated, you had an opportunity to see it, but I was expecting something more from a very concrete and worthwhile report. I think that any member of the committee had an opportunity to place his or her input in the content of such a report. It was not invented by us, the members of the Legislature, the final analysis of so many representatives and deputations made before us. If this report will be dismissed so lightly with the position that the board had an opportunity to take a look at the content and no action was taken in relation to the implementation of certain policies which can be changed in the administration of the board, I really feel sorry. I hope that the board will appoint a group of people to do just that.

R-1125 follows



Mr. Lupusella:

I hope the board will appoint a group of people to do just that.

Mr. Chairman: I think Mr. Cain has responded as well as he can on this. Obviously, he is not going to totally satisfy you. It is my understanding and certainly it was the minister's--Mr. Ramsay did say in the House that Bill 101 is stage 1 of amendments to the Workers' Compensation Act. As far as policy is concerned, the board is looking at their policies.

Mr. Lupusella: I hope they will do that.

Mr. Chairman: I think they are.

Mr. Lupusella: I am getting the feeling that they did not do the work which they were supposed to do.

Mr. Chairman: I think they are and I think they have been making changes as a result of our discussions. We have heard that time and time again from the board.

Mr. Lupusella: I would be pleased to hear even in the future to find out what course of action the board took in relation to the principles of policies enunciated by this report in which there was a strong recommendation made by this committee that the board was supposed to take immediate action. I hope that I am going to get such a reply, not tomorrow or next week, but even in the future.

Mr. Cain: You will get a reply, Mr. Lupusella.

Mr. Lupusella: Thank you. I am sure that I am going to get a detailed report about the Ontario rating schedule and the revision of that and the stage which we are in and I am sure that later on someone will be able to give me a reply to that particular request.

Mr. McDonald: That is the permanent disability rating schedule.

Mr. Lupusella: Yes.

I raised the issue before about the appointments of new people who are supposed to sit on the new, restructured corporate board and the same concern of appointment of people goes to the independent industrial disease panel. Can we get a reply from the minister's deputy assistant as to whether or not the people have been appointed or we are at the stage that this panel is not formed yet?

Mr. Gillies: I can tell you that the appointments have not been made yet. They are being formulated in the ministry. I know that the minister is considering a number of applicants. He is reaching out to the various interest groups and the types of people that we would want on such a panel. No, they have not yet been appointed. They will be, I would expect, quite shortly.

Mr. Lupusella: What about the independent medical review panel?

Mr. Gillies: I am sorry, I am being corrected on that. Those appointments will not be made as immediately as the new corporate board. We may, in fact, be waiting just a little longer for that.

Mr. Laughren: Not for July 1 either?

Mr. Gillies: I do not believe so.

Interjection.

Mr. Gillies: You hope July 1? We hope July 1, but not the April 1 deadline.

Mr. Lupusella: What about the independent medical review panel?

Mr. Gillies: The medical review panel ditto?

Interjection.

Mr. Gillies: That is what we were talking about, the industrial disease panel.

Mr. Lupusella: No, that is different. The independent medical review panel has to do with appeals related to Bill 101.

Mr. Gillies: We are hoping to have everything in place by July 1 in terms of industrial disease standards panel and the medical review panel.

Mr. Laughren: At least we know the kind of consultation that is going on.

11:30 a.m.

Mr. Lupusella: My friend Mr. Laughren and myself were predicting in the Legislature a chaotic system, having two systems in place. We do not have the infrastructures yet upon which Bill 101 can operate. Actually, this type of consultation which is taking place and the implementation of Bill 101, whenever it is coming into effect, reinforces the thesis which has been expressed by--

R-1130 follows

...consultation taking place and the implementation of Bill 101, when it is coming into effect--it reinforces the thesis which has been expressed by Professor Laughren in the Legislature and myself--

Interjection.

Mr. Lupusella: You are a professor.

Mr. Gillies: I appreciate what the good professor and you are saying, but the thing is that those parts of Bill 101 to which these two panels relate are not proclaimed until July 1, so the board would not even have the statutory right to hire before July 1. I want you to know that work in choosing and selecting the type of people we want on those panels is proceeding, but there would be no point or value in announcing their appointments before the proclamation of the act. I do not want you to think we are sitting around waiting for July 1 to start--

Mr. Lupusella: Are you aware that in less than six weeks, spring will be in Toronto, or what?

Mr. Gillies: Yes, I am aware--

Mr. Lupusella: And that time is flying or what?

Mr. Gillies: I am aware that very shortly spring comes to Miller's Ontario.

Interjection.

Mr. Laughren: It is earlier for some than for others.

Mr. Gillies: Seriously--

Mr. Lupusella: I am very serious--

Mr. Gillies: The work in consultation is ongoing. The announcements will come around the time of the bill's proclamation, but the groundwork and the consultation are ongoing as we speak.

Mr. Lupusella: Because of this particular lack of action which is taking place on the formation of these panels, can we get some statement from the board about the procedure which will be in place and which has been in place to act on Bill 101 to make sure the system will run smoothly? Can we get some statement to enlighten us? Professor Laughren is really concerned about the chaotic system which will eventually be in place.

Mr. Laughren: On a point of privilege, I must insist that Mr. Lupusella cease and desist from referring--I will not be maligned by being referred to as an academic like that.

Mr. Lupusella: My friend Floyd, then.

Mr. Laughren: That is better.

Mr. Cain: In terms of Bill 101, there are two dates that are important, April 1, primarily for benefits, and July 1, ??organizational structure. Mr. McDonald would be able to describe the policies that are coming forward--

Mr. Laughren: Is this the sick McDonald or the healthy McDonald?

Mr. Cain: He was ill last year but well this year.

Mr. McDonald: Has he been talking to you about the process leading up to the first part of the bill?

Mr. Lupusella: Yes.

Mr. McDonald: We have already instituted training sessions with our claims adjudication staff. They began in November because we were not aware--we had to be prepared for a January 1 date. There was an extensive training program involving all the claims adjudicators. The draft act as it was available was prepared for them. They all attended two-day sessions put on by supervisors and managers within the adjudication branch. We then involved the other divisions of the board, appeals, rehabilitation, financial services, so that all the staff could be aware of what was coming. We have since continued to reinforce the provisions of the bill as it now exists, and we are prepared to go ahead with it on April 1.

As for the implementation of the utilization of the independent panels, it is something that has not been addressed by us because we were too involved in getting ready for April 1. We have another time frame to deal with the second aspect, Mr. Lupusella.

Mr. Lupusella: Do you foresee any delay added to the present delay because of the lack of action of the Minister of Labour (Mr. Ramsay) in appointing the people on the panels? I am sure in the springtime, in April, you will already get notifications of accidents and so on. Do you foresee any complication in the administration of Bill 101 if the panels will not be appointed as soon as possible? Do you foresee any problem as a result of that?

Mr. McDonald: I do not--

(R1135 follows)



~~(Mr. Lupusella)~~

~~...on Bill 101 if the panels will not be appointed as soon as possible. Do you foresee any problem as a result of that?~~

Mr. McDonald: I do not foresee a problem. As Mr. Gillies has indicated, they are proceeding towards the appointment, and it cannot be done before July 1. I think they will be in place at that time. What you are looking at, though, is whether utilization of those panels is beyond an appeal, and utilization by the independent appeals tribunal. It is a fair ways down before you are going to reach that stage.

Mr. Lupusella: I hope the minister is not sleeping just because the appeals system will take place maybe in six or seven months--to delay the process of appointment. I hope he will not do that.

Mr. Gillies: I was just indicating that the work is ongoing. We are not waiting for July 1 for anything to happen before action is taken. There will be announcements as to what is going on and who is going where around that time, but the I want to assure you again that the work is ongoing now. We are not waiting for any artificial deadline.

Mr. Laughren: Could I ask what is going to happen to the commissioners. Where are they going to fit in?

Mr. McDonald: That is a very interesting question.

Mr. Gillies: That is a good question. Maybe Mr. Warrington could take first innings at that, and then I will come back.

Mr. Warrington: I cannot answer that because we do not know.

Mr. Laughren: Really? Do you know what kind of agony you are putting John ??Smith through?

Mr. Warrington: Yes. Not only John ??Smith, but 10 or 11 others. It is my hope--I am speaking very personally now--that most, if not all, of those commissioners would be absorbed into the system. That I do not know.

Mr. Cain: In terms of organization structure, Mr. Lupusella, you were concerned about how the board is now coming up to July 1 on the appeals structure, already at the board there is preparation going on to create a division that will look after the objections that workers will make. Hopefully, well before July 1 we will be ready with a structure in place that will appropriately address all objections within the board and then external appeals tribunal will take over from beyond that. That is ongoing, and we will certainly be ready by July 1.

Mr. Laughren: To go back to these commissioners for a moment, they now hear appeals, right? That is their main function?

Mr. Warrington: That is correct.

Mr. Laughren: Is it their only function?

Mr. Warrington: That is correct, with the exception of two, who are corporate commissioners, and they also sit on the corporate board.

Mr. Laughren: Who are they?

Mr. Warrington: Dr. Jacobs and Mr. Tom McEwan.

Mr. Laughren: Yes, I know Dr. Jacobs. How many other commissioners are there?

Mr. Warrington: Including myself, there are two others.

Mr. Laughren: I understand your very serious concern now. It is called enlightened self-interest, I believe.

Under the new system where you have the independent appeals tribunal--

Mr. Warrington: Tripartite.

Mr. Laughren: Tripartite, all right; it is another way of putting it. Is it the hope of these commissioners--yourself aside, because you have other jobs, do you not, at the board? You have another--

Mr. Warrington: My basic responsibility is appeals, but I would also sit on the corporate board along with Dr. Jacobs and Mr. McEwan.

Mr. Laughren: As a commissioner?

Mr. Warrington: As a corporate board commissioner, yes. I can sit, and do sit, on appeals. I am a commissioner in that context.

Mr. Laughren: I understand, but if you were not a commissioner, you would still have full responsibilities in your job at the board, right? You would have enough to keep you busy?

Mr. Warrington: There is no longer an appeals system.

Mr. Laughren: No. Under the present system, you could be doing a full-time job without being a commissioner.

Mr. Warrington: That is correct.

Mr. Laughren: Just as Mr. McDonald--you are not a commissioner, are you?

Mr. McDonald: No.

Mr. Laughren: Just as he does without being a commissioner. With the tripartite appeals system, I suspect--perhaps you do not want to answer this--would it be safe to say that the commissioners would like to become members of that tripartite appeals tribunal?

Mr. Warrington: I think some of them would. I cannot respond to that.

Mr. Laughren: I was not thinking of you personally because you have other responsibilities with the board. I was thinking of the ones whose responsibility is for appeals.

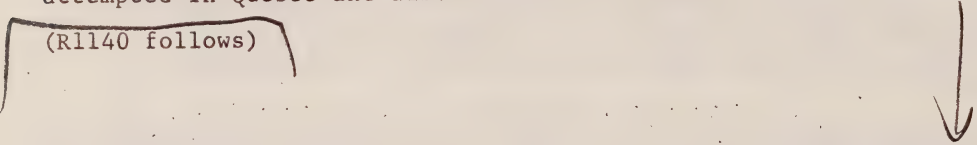
Mr. Warrington: Not from my point of view, but possibly from the government's point of view, this is to be an independent appeals tribunal. If they just move the present commissioners and make them into hearing officers, it defeats to a degree the independence.

Mr. Laughren: I am so glad--

11:40 a.m.

Mr. Warrington: I might add to that--to throw--this was attempted in Quebec and also in British Columbia. BC had had--

(R1140 follows)



(Mr. Warrington)

~~present commissioners and made them into hearing officers, it defeats, to a degree, the intent.~~

~~It might add to that, and just to throw a little ?? this was attempted in Quebec and also in British Columbia. BC has had an outside external appeals board for about seven years. They have legislation coming before the House in about three weeks time, I believe, to bring the appeal board back in.~~

Mr. Laughren: I am glad to hear you say that. That is what I was leading to. You cannot simply move people from the board into the tripartite appeal system.

Mr. Warrington: That of course is not my decision or the board's decision.

Mr. Laughren: I understand that.

Mr. Gillies: I think I can indicate an appropriate answer to that. These appointments to the corporate board will be made by the Lieutenant Governor in Council who will be examining the resumes of the people who are interested and who will be going, we would all assume, to appoint the best possible people. If any of the existing commissioners are interested and wish to apply along with other suitable applicants to the corporate board, there would certainly be no barrier to that and they would be considered along with other suitable applicants.

Mr. Laughren: But would you not agree that the new tribunal must not only be independent, it must be seen to be independent?

Mr. Gillies: I quite agree with that and I am sure that independence, one of the underpinnings of the new corporate board, would be a criteria that the Lieutenant Governor in Council would be looking at it and making a selection.

Mr. Laughren: I am sure.

Mr. Gillies: I am not saying that necessary excludes all commissioners, I am just saying that they would be applying, along with other suitable applicants, and we would all have to assume and hope the best people would be chosen.

Mr. Laughren: I asked how many commissioners there are in total? Twelve commissioners. Obviously in our role as obstructive opposition, we shall be watching with great interest the appointment of the appeal tribunal.

Mr. Gillies: I would expect nothing less of you.

Mr. Laughren: You would be disappointed if we did not. At the same time, of course, having an eye and ear out for former colleagues in this assembly.

Mr. Gillies: Or people who wish to become former colleagues?

Mr. Laughren: May already have been by then.

Hon. Mr. Alexander: Are you implying that you would like to leave politics?

Mr. Gillies: I definitely heard an application there.

Hon. Mr. Alexander: I just thought I would throw that in.

Mr. Laughren: I was thinking of people who might get defeated between now and July 1 and not be around any more.

Mr. Gillies: It has never been your style to be so pessimistic, Floyd.

Mr. Lupusella: ?? make sure that you send applications to all members of the Legislature.

Mr. Gillies: Pass that request along to the minister.

Mr. Laughren: If you are serious about cleaning house at the top.

Hon. Mr. Alexander: Bring your resume right to the table.

Mr. Lupusella: If I may go back to the implementation of Bill 101 and development of policies and so on, I think that I heard correctly that adjudicators are already prepared to ?? about the contents of Bill 101 and they have undertaken a training course to know what it is all about.

Am I reading correctly that the same adjudicators are going to deal with Bill 101 and at the same time with the cases falling under the jurisdiction of the present act?

Mr. McDonald: You are reading that correctly. There is no question that the adjudicators are going to have their hands full in dealing with two separate pieces of legislation at the same time.

In the initial adjudication section that will not be a factor for very long because once the decision is made, the claim leaves that area and flows into continuing. There is no question that the job of the adjudicator becomes much more difficult. The job of the payment personnel becomes much more difficult. They have to look at the date of the accident before they do anything with that file to see which piece of legislation they are dealing with in order to make a decision.

Mr. Lupusella: And because I read this process correctly, do you not agree with me that the delay issue, which was dismissed by you, will cause more problems on the adjudication process of the claim per se as a result of that?



1145
follows

~~(Mr. Lupusella)~~

~~the claim per se, as a result of that.~~

Mr. McDonald: No, I do not believe so.

Mr. Lupusella: I was under the impression that the board would have appointed new people to deal with Bill 101, in order that it would have some sort of protection that our concerns--negative concerns, as you may wish to define them--will not take place. The delay issue, as you heard yesterday, is a real one. It is existing and it cannot be denied. I am sure that for adjudicators who will be involved with Bill 101 and the implementation of the present act, as well, I am sure the delay issue will persist and it will be there.

Mr. McDonald: Mr. Lupusella, we considered the possibility of creating a separate group of adjudicators to deal with claims solely relating to Bill 101, but it really is not practical to do that. The further you go along the lesser the problem becomes. I am agreeing with you that there is no doubt that the job of the adjudicator becomes more difficult, but it just is not practical to create a totally separate group of adjudicators to deal with those types of claims.

One criticism we have now is that people are changing from adjudicator to adjudicator. We want to avoid that. We think that we have developed greater stability within the adjudication branch that there is a longer relationship between the adjudicator and the injured worker, and we do not want to do anything to destroy that.

Mr. Lupusella: I hope you are right, but you are going to be faced with a new generation of injured workers on Bill 101, and I think that with my approach you would have saved the relationship which has been created by the present adjudicators and the generation of old injured workers and, at the same time, the new group would have created a new approach with a new generation of injured workers covered under Bill 101.

I hope you are right, that our concern will never happen, but I still have my own reservations, along with my friend Floyd, not because we are pessimistic, Mr. Gillies, but you had better be pessimistic to make sure that you end up to be optimistic sometimes.

Mr. McDonald: Perhaps I can add that what occurs now is when adjudication start at the board, they go through a 12-week training period. All of the adjudicators who are now joining the board are trained for initial adjudication, and they are being trained in accordance with the provisions of Bill 101. They will be dealing with the claims under Bill 101. They will not have any of the old claims. They remain in the initial adjudication section for anywhere from 12 to 18 months, so by the time they are prepared to move on to the continuing disability section, there

(Mr. McDonald)

will be fewer of the old claims remaining. There will be some, no question about that, and they will have to address both pieces of legislation, but the problem will diminish as time goes on.

Mr. Lupusella: As we stated before, and the same principle was reinforced by the chairman's opening statement, the number of appeals has been on the increase, and it was not in the range of decrease, which means that adjudicators in different branches are already active in the decision-making process of particular claims. I think that with the addition of new injured workers, which will be covered by Bill 101 not only will the pressure increase, but the chaos might arise. That is why I raise this particular concern.

I would have been satisfied with your explanation if the figures or statistical data had shown that the number of appeals presently applied within the present structure of the present act would be on the decline, but in 1983, the number of appeals has been on the increase, which reinforces the principle of my concern and my friend's concern, as well.

11:50 a.m.

Mr. Laughren: Can I have a supplementary, or are you waiting for an answer?

1150 follows



~~(Mr. Lupusella)~~

~~principle of my concern and friend's concern, as well~~

~~Mr. Laughren: May I have a supplementary? Or are you waiting for an answer?~~

Mr. Lupusella: No.

Mr. Laughren: I do not believe that there will be a flash on light on June 29 and everything will suddenly appear out of nowhere reasonably in place. So there must be a lot of planning going on now, not to mention meetings.

Mr. McDonald: Particularly with pension schemes.

Mr. Laughren: And the entire rehabilitation division. The question I have has to do with workers' advisers. Who many workers' advisers do you plan to have? You must have some numbers by now.

Hon. Mr. Alexander: We have eight now. As you know, with respect to workers' advisers, that division--if I can put it that way--will be separate, and apart, and independent. How many the government is anticipating I cannot answer that question right now. We have eight at the current time. There is a further dimension regarding the employers' advisers, which is a new initiative. I do not know what the government is thinking in this regard, because it, too, is independent of the board. I do not know whether Mr. Gillies can assist us at this particular time, or not, but I think there will be input from us if there has not already been some with respect to the usefulness of the workers' advisers and the employers' advisers. The number we can see in the future, I cannot answer, Mr. Laughren. But I would think that is a matter which has to be addressed early and, as Mr. Gillies has indicated--I think he said it--there are ongoing discussions right now with respect to not only the workers' advisers, but the employers' advisers, the independent triparty appeal panel, the industrial disease standards panel, the corporate board--

Mr. Laughren: No. Do not bring in the red herrings.

Hon. Mr. Alexander: No. I am just trying to indicate that--

Mr. Laughren: Am I not correct that the workers' advisers will be paid by the board and reimbursed by the Ministry of Labour?

Hon. Mr. Alexander: As I understand it--

Mr. Laughren: Is it the other way around?

Interjection: The other way around.

Mr. Laughren: I am sorry. I meant it the other way around.

Hon. Mr. Alexander: Yes. They will be paid by the ministry and reimbursed by us.

Mr. Laughren: Reimbursed by you.

Hon. Mr. Alexander: Right.

Mr. Laughren: Surely, it is the Workers' Compensation Board that will make recommendations on the number of workers they need. How with the Ministry of Labour--

Mr. Gillies: Perhaps I can give you some assurance that if, as the chairman says, there are eight now--

Hon. Mr. Gillies: There are eight now, sir.

Mr. Gillies: --I can tell you that there will be no fewer. While I do not know of a target number at this point, there will be no fewer than there are now and, indeed, if more are required, they will be hired.

Mr. Laughren: Oh. It is not an "if." Surely to goodness, with the workers' advisers, would you not agree that every appeal should go first to a workers' adviser?

Hon. Mr. Alexander: Every appeal?

Mr. Laughren: Every appeal.

Mr. Gillies: Some would argue that if a worker has--

Mr. Laughren: Well, that is what you are heading for.

Mr. Gillies: Some would argue that if there is a good representation for the worker that in some cases that may not be necessary.

Hon. Mr. Alexander: They are not necessarily workers' advisers. I think you have ??the Industrial Accident Prevention Association, members of provincial parliament--

Mr. Laughren: No.

Hon. Mr. Alexander: No?

Mr. Laughren: No.

Hon. Mr. Alexander: I think you have others. I believe it is up to the injured worker. There is that option in there, too, Mr. Laughren.

Mr. Laughren: Would not every single injured worker who wants an appeal go through the injured workers' advisers? Why not?

Hon. Mr. Alexander: Because I think it is his choice. He may not proceed in--

Mr. Laughren: Oh, I can tell you right now what may recommendation is going to be. Every single worker who wants an appeal goes through the workers' adviser. If you think that eight advisers are going to handle that--or 10, or 30--

Hon. Mr. Alexander: No, of course, eight cannot handle that.

Mr. Laughren: That is the way I think the system should work.

Hon. Mr. Alexander: No.

Mr. Laughren: Because I will tell you something. I am really up to here with the problems with the board and appeals. Last year the chairman of the Workers' Compensation Board said to me, "If you cannot stand the heat, get out of the kitchen." I remember that and I was not offended by it.

Hon. Mr. Alexander: Oh, no.

Mr. Laughren: But I remembered it.

Hon. Mr. Alexander: It was said in jest.

Mr. Laughren: No. I remembered it because I think what the--

Mr. Lupusella: You withdraw the statement then.

Hon. Mr. Alexander: I am not going to withdraw that statement. Carry on, because I want to hear your concerns.

Mr. Laughren: I feel that cuts both ways. If the board cannot hack its appeals, then it should get out of the kitchen, too. We may both end up in the same room

Hon. Mr. Alexander: We may both end up in the same kitchen.

Mr. Laughren, what you are stating is that you would like to see sufficient numbers of workers' advisers to handle the case load.

Mr. Laughren: To handle appeals.

Hon. Mr. Alexander: Well, to handle the case load involving appeals, because that is where the workers' advisers come into play.

Mr. Laughren: You go on and live in your little dream world until the whole system falls into place and see what happens.

Hon. Mr. Alexander: No. What you are saying right now is that every appeal should go to a workers' adviser.

Mr. Laughren: That is what I am saying.

Mr. Laughren: You go on and live in your little dream world until the whole system falls into place and see what happens.

Hon. Mr. Alexander: But what you are saying right now is that every appeal should go to workers' adviser.

Mr. Laughren: That is what I am saying.

Hon. Mr. Alexander: I say to you, is there not an option there with respect--

Mr. Laughren: Oh, of course. The worker can say, "I do not want to have a workers' adviser; I want my trade union or my MPP."

Hon. Mr. Alexander: If I can recall correctly, any time a person writes to me, the option is given to that person, "Listen, we have workers' advisers here who can assist you with your appeal," and our appeals booklet says that.

Mr. Laughren: I understand that.

Mr. Lupusella: The injured workers lost confidence. They did not want to be represented by workers' advisers.

Hon. Mr. Alexander: There are a lot of them who still use workers' advisers.

Mr. Lupusella: It is a small percentage.

Mr. McKessock: What percentage use workers' advisers?

Mr. Warrington: I cannot give you a percentage, but I can give you numbers if it is of any help. In 1983, there were 835 decisions rendered at the appeal board level, and 269 of those were represented by workers' advisers. There was no group larger. The next is unions at 186, and a total of all the other representative groups, which would be injured workers, of 142. Then we get into solicitors and MPPs.

Mr. McKessock: So it is about a third.

Mr. Laughren: How many MPPs?

Mr. Warrington: Forty-three MPPs.

Interjection.

Mr. Lupusella: The reason why there is a decline in MPPs appealing decisions at the board level, in my particular case I am referring people to the Minister of Labour (Mr. Ramsay). I am not taking appeals anymore. I am an MPP, and I want to be a legislator. I do not have to waste time down there for policies they never change, and I want to be free and do my work and represent the concerns of people on the floor of the Legislature

(Mr. Lupusella)

and not become a case worker. I feel sorry for injured workers. That is why I impeach it here in front of board officials. That is what my role is supposed to be. What do you think, that I am going to gain votes by representing 10 people before the board, or if I win, I get more support? I do not need that.

Mr. Laughren: The other thing that bothers me a great deal, and we have talked about this before, is the number of appeals that are won. In my view, you can say, "Well, that shows that our appeal system is open and fair and so forth." That is one argument, but the other argument is that if your claims review branch--which I believe is within Mr. Cain's incredible empire--and I do not mean to be unfair, but if they were doing their job, those appeals would be overturned before they got to the adjudicator level and before board level. I think it is absolutely ludicrous.

I was talking to my colleagues, I was talking to the member for Sudbury East (Mr. Martel) about the number of appeals that are won at the appeal level. I think it is crazy, and the claims review branch simply cannot be doing its job with that many successful appeals. It cannot be. It is ridiculous. That is why I think that all appeals should go first to the workers' advisers.

Hon. Mr. Alexander: Mr. Laughren, can you not look at the appeal structure--I know that it is going to be changed--as being in favour of the injured worker? We also have the Supreme Court of Canada, and are you saying that all the lower levels do not have the know-it-all or the wherewithal? I think in the long run maybe, yes, I am the first one to admit there are delays. We have also said we are trying to bring about policies that will reduce delays.

Mr. Laughren: All the delays are not deliberate.

Hon. Mr. Alexander: None of the delays are. I think what I have to impress upon you is the fact that the appeal structure, in the long run, if they are overturned, thank goodness we have a structure that gives that number of opportunities to have your case heard.

Mr. Laughren: Right. Do you miss my point totally?

Hon. Mr. Alexander: Heavens, no. I have not missed your point. With respect to the workers' adviser, we send out a booklet, a pamphlet or whatever the case may be, that sets out the proper steps that should be taken if you wanted to appeal to the appeals adjudicator and/or the appeal board, and at the bottom or somewhere in there say that the workers' adviser is available to you if you so desire. Is there anything wrong with that?

12 noon

Mr. Laughren: No, there is nothing wrong with that, but what is wrong is that the number of appeals that the claims review

(Mr. Laughren)

branch is not doing the work on or they would understand that it should be overturned. It would not have to go on to the next level. If the claims review branch was looking at those claims in more depth, they would understand that should be overturned. Why else are they...

1200 follows



...claims review branch is not doing the work or they would understand it should be overturned. It would not have to go on to the next level. If the claims review branch was looking at those claims in more depth, they would understand that that should be overturned. Why else are they being overturned at the next two levels? Because the claims review branch has not done its job. It is plain and simple.

Mr. Chairman: Mr. McKessock has a supplementary.

Mr. McKessock: It seems there is no end to the appeals so eventually you are going to get to the end board or whatever that is going to look at it. Every letter that comes back with a decision says: "Of course, it is always open to appeal." Is there any end to the appeals? Can you tell me what are the most appeals that has happened in an individual case?

Hon. Mr. Alexander: I cannot unless maybe Mr. Cain--

Mr. Warrington: At the appeal board in 1983, the issue before the appeal board more than any other was ??Quantum of permanent partial disability pension. He wanted more permanent partial disability. That was the number one issue. Number two was further entitlement. Number three was initial entitlement.

Mr. McKessock: My question really is: On one claim or looking at one individual, what has been the most appeals by any one individual?

Mr. Warrington: Any one individual?

Mr. McKessock: It seems to be that there is no end to the appeals. I wonder sometimes how many appeals an individual actually has had in an individual case over a period of several years that it goes on and on.

Mr. Warrington: We have more appeals in Ontario than any other jurisdiction. Basically there is a claims review branch, which Mr. Cain will describe in a few minutes; then we have the claims adjudicator, a single person appeal; and then we have an appeal board, which is a three-person appeal board. That is the final step in appeals. Of course there is the Ombudsman.

Mr. McKessock: I have a case somewhere in my files that is a very thick file. I know there have been several appeals. If you look at an individual case--and I do not know whether any of you have done that or not--and say: "This case has been before the board a lot of times." I wonder how many appeals they have had. Would it be three appeals or would they have 25 appeals over the lifetime of the claim, which would be maybe eight to 10 years.

Mr. McDonald: Any decision that is rendered by an operating division, whether it be initial entitlement, restricted entitlement, quantum of permanent disability, the worker can appeal that specific issue. The possibility certainly exists of him going to the board on more than one issue but only once on that one issue unless new evidence can be presented.

(Mr. McDonald)

I am not aware of any statics which would tell you that Joe Smith has been to the board on 15 different occasions on 15 different issues. He can appeal on medical aid, he can appeal on rehabilitation. There are two more issues so any decisions affecting him, he can appeal and go through the whole appeal system on that particular issue.

Mr. Warrington: Sir, I know of a very few injured workers who have appeared before the board four or five times but they are very rare. As Mr. McDonald has explained, it would have to be a different issue each time assuming it reaches the appeal board level.

Mr. Lupusella: Proceeding with different issues, let us get into the principal of Bill 101, subsection 30(7), which reads: "Where an injury is attributable solely to the serious and wilful misconduct of the worker, no benefits or compensation are payable unless the injury results in death or serious disability."

The act lacks of a definition of "serious disability". I foresee so many problems. Will you please enunciate to us--and maybe the chairman can because he is a lawyer--what kind of policy the board has developed to define the word "serious disability". I foresee so many problems on that issue which will be unbelievable and the discretionary power of the board will be so strong to deny any particular claim with the power it is going to going to have under this particular section.

Hon. Mr. Alexander: I am please you have confidence in my legal ability but I think I will pass this one on to Mr. Doug Cain.

Mr. Haggerty: Who is not a lawyer.

Hon. Mr. Alexander: Who is not a lawyer.

Mr. Cain: That particular subsection is in the current act. The policy that is current will continue and that is: Serious disability is a disability that lasts for more than six weeks or results in a permanent impairment.

Mr. Lupusella: So it will be the same policy implemented under the new act.

R1205 follows

(Mr. Cain)

--disability is a disability that lasts more than six weeks or results in permanent impairment.

~~Mr. Lupusella: So it will be the same policy implemented under the new act.~~

Mr. Cain: That is correct.

Mr. Lupusella: Okay. I wanted to know where the board stands because I was of the impression that as a result of Bill 101 a new set of policies would be set up to change something which eventually was archaic in the old act, replacements of old principles with new principles to make sure that the system would work more smoothly.

Mr. Haggerty: Why would you take six weeks, not three weeks or three days?

Mr. Cain: Unless someone else from the board can answer, to my knowledge, it is probably an arbitrary figure out of history. I do not know why it is six weeks and not three weeks or three days. But when one says serious disablement or serious disability, one could just in normal thought, one would not think of it as three days. That usually is not construed as serious disability so I think when the time interval was chosen, some people might say that six weeks is not terribly serious and others would say three weeks is. It seems to be a fairly arbitrary, probably reasonable figure to choose.

Mr. McDonald: I would have to suggest Mr. Haggerty that in practice the section is not used very often. What you get into on occasion is an individual who may have deliberately not followed a safety instruction such as wearing a hard hat or boots. What we would be looking at is the individual who has been warned, the documentation is there that he has been instructed, that he is not to wander onto work premises without a hard hat, without protective eye glasses, without boots. Usually what you get into is a very short period of disability in these instances. The individual can get a foreign body in his eye and be off for a couple of days or something of this nature. Where you get into a serious disability, that is the reason for the section being there even though the man has in effect gone against the safety regulations, he will still be compensated if it is a serious disability.

Mr. Haggerty: But how do you draw that relation when you are dealing with industrial diseases though?

Mr. McDonald: It is never used Mr. Haggerty. It has never been used in the case of an industrial disease.

Mr. Cain: From my own personal experience, I have to say I suspect that section is not used more than three times a year and I do not think I am exaggerating on the low side when I say that. It is rarely ever used because rarely can the employer show that they enforced their rules to the extent we expect them to in order to be able to say this workman did what the section

(Mr. Cain)

describes what he must do.

Mr. Haggerty: I think when you are talking about wearing a hard hat, I think of one particular case that was in the paper. It might have been ?? at that time where we had a person working for the Canadian National Railway if I am not mistaken and because his religious belief would not permit him to remove his turban, the decision was brought down that he could work without wearing a hard hat. We could be running into difficulties in this area too saying that because of religious belief I am not going to do this or that. It could be challenged by the courts. I think the decision at that time was that person did not have to wear a safety helmet.

Mr. McDonald: That decision has been overturned by the court Mr. Haggerty.

Mr. Haggerty: I was not aware of that.

Mr. McDonald: It was in Manitoba and he has been required to wear a hard hat otherwise he is not allowed to do the job.

Mr. Lupusella: If I may proceed Mr. Chairman. Section 8 of Bill 101 which is a medical examination by the worker's doctor. As you are aware and some members are aware of the amendments we moved in the Legislature to delete that particular clause--

Mr. McDonald: Excuse me, what section are you referring to?

Mr. Lupusella: Section 8 of Bill 101.

Mr. Cain: Section 8 of the bill, under section 21 of the old.

12:10 p.m.

Mr. Lupusella: Oh, section 21. I am sorry. We were against it because this particular section constitutes a violation of rights under the Charter of Rights and Freedom. We raised this opportunity for a collusion between employer and--

R-1210-1 follows



...we were against it because this particular section constitutes a violation of rights under the Charter of Rights and Freedoms, raises opportunity for collusion between employer and doctor, will lead to fragmentation of medical profession into pro- and anti-employer doctors and the standing committee on resources development recommended the repeal of sections 21 and 22 of the current act.

I would like to know the policies of the board in relation to these particular sections and how it is going to be applied in the case of injured workers refusing, by their own will, to appear before an employer's doctor? Did you develop any new policy in relation to those two particular sections?

Mr. McDonald: The section is self-explanatory. What policy did you have in mind?

Mr. Lupusella: In case the injured worker refuses to appear before an employer's doctor, what is going to happen to the injured worker? Did you develop any policy? I know it is self-explanatory. I know the sections.

Mr. McDonald: The employer has the right to appeal the decision to the appeal tribunal.

Mr. Lupusella: Maybe you are misunderstanding my message. The employer, under this particular section, has the right to call an injured worker and refer this injured worker to the employer's doctor. In case the injured worker refuses to appear, did you develop policies in relation to these sections, or are you going to read the sections as they are? What course of action are you going to take against the injured worker?

Hon. Mr. Alexander: I think the sections as amended, sections 21 and 22, but I know there are sections that follow that, and I think that indicates what happens, subject to the appeal. This is a clarification of two sections that, for better words, lack finality. This section 21 now indicates the right of the employer, which now gives the right of the employee--

Mr. Lupusella: To appear before a practitioner--

Hon. Mr. Alexander: But it also gives him the right to appeal.

Mr. Lupusella: Yes.

Hon. Mr. Alexander: There are further sections in the act after that which indicate, if I am not mistaken, what happens after the appeal if it is stated that he should appear, and he does not appear.

Mr. Lupusella: I understand the content of the sections. My simple question was, if you have a set of policies which have been developed to further clarify course of actions against the injured worker in relation to benefits--if his benefits will be cut off--what he has to do? I understand the course of action which the employer has to appeal, in case the injured worker will not appear before a practitioner suggested by the employer, but what is the board going to do in case the injured worker refuses to appear before a practitioner as suggested by the employer in relation to the payments? What is the board going to do?

Mr. Haggerty: Are you changing the regulations, that is what he is saying.

Mr. Lupusella: Right.

Mr. Cain: Until we receive a medical report or an order by the external appeal tribunal, those two subsections do not involve the board. We wait, and we keep doing whatever we are doing if we think it is right.

Mr. Haggerty: By regulation.

Mr. Cain: If we get a medical report, we have to look at it, or if we get an order from the external appeal tribunal, we will have to act on it.

Mr. Lupusella: In other words, in the meantime, until the employer appeals or takes a course of action against the injured worker, that he is not willing to appear before the practitioner, payments will continue. Am I correct?

Mr. Cain: Everything else being equal in the file, the payments will continue because that section does not say that the board will stay payments, withhold, or do anything. The board will continue its course of action.

Mr. Lupusella: With regulations--

Mr. Cain: I do not think any regulations are needed.

Mr. Lupusella: There is no need for regulations.

Mr. Cain: That is an assumption. I am no lawyer.

R-1215-1 follows



(Mr. Cain)

~~board will continue its course of action.~~

Mr. Lupusella: With regulations?

Mr. Cain: I do not think any regulations, at least that is an assumption. I am no lawyer.

Mr. Lupusella: That is why I raised the question to the chairman.

Hon. Mr. Alexander: I think I did mislead you, ?? Bill 101.

Mr. Chairman: Unintentionally.

Hon. Mr. Alexander: Unintentionally I brought to your attention the wrong information. I know what bill 101 does. Sections 21 and 22 of the said act are repealed ?? and substituted therefore. Section 22 had provisions in it with respect to, if the injured worker did intend, that section is gone now and the only section we have in here now is a revised section 21. I think that Mr. Sweeney--

Mr. Lupusella: So actually that statement was made by Mr. Cain who will understand the injured worker, until the employer appeals the issue before the independent tribunal system, will not be penalized with a cut in his payments.

Mr. Cain: The act does not give us the right to stop or reduce payments because ?? refuses to go to the doctor prescribed by the employer.

Mr. Lupusella: And ?? I am sure that you will find many injured workers who will refuse to appear before a doctor suggested by the employer. As a result of that, my consequent concern is, are you foreseeing an increase of appeals before the independent tribunal system, because I am sure this is a contraversional section?

Mr. Warrington: This is only a guess on my part, but I would expect that the external appeals tribunal will in the beginning be tried on, if you will. They will get a lot of letters asking for leave to appeal to the external board. I can anticipate that, but the number that will be accepted as legitimate appeals is another question because, of course, in order to seek leave to appeal or to have it accepted, one would have to have new evidence must like our section 76 at the present time.

Mr. Lupusella: If I read the act correctly, then the appeal tribunal panel will have the right to refer the injured worker eventually to--

Mr. Warrington: --a medical review panel. If it is a medical issue in dispute they have a right, that is correct, sir.

Mr. Lupusella: Do I understand correctly that if the injured worker is refusing to appear before an employers practioner, it is a medical issue which will be dealt with by an independent tribunal panel.

Mr. Warrington: In geneal I think that is a good assumption. It is difficult to just generalize on that, but yes, if the question is the medical practitioner, yes, the dispute is likely medical oriented.

Mr. Lupusella: The reason I raised this issue is, first I was concerned about the course of action which would be taken by the board against the injured worker and I was of the opinion that the board would be inclined to cut the benefits for the refusal of injured workers to appear before an employer's practioner.

Mr. Warrington: Mr. Cain has explained that adequately, sir.

Mr. Laughren: Have you ever thought of moving the adjudication department into the medical division, since that is who does the adjudicating now anyway?

Mr. Warrington: I do not agree with that comment, Mr. Laughren.

12:20 p.m.

Mr. Haggerty: I have a supplementary going back to the original question about the matter of not rehabilitation, but funding workers' compensation and I would like to have some further clarification on that funding, particularly if you picked up the Globe and Mail yesterday. I believe it is Johns Manville...

1220-1 follows



(Mr. Haggerty)

~~verification on that funding particularly if you picked up the Globe and Mail yesterday where it was reported that Johns Manville~~ in the United States is taken to the courts on matters concerning workers' compensation. They had to sue Lloyds of London and a number of other insurance companies to cover the cost to the injured workers, particularly those workers who had contracted respiratory diseases.

I raised the matter during the debate on Bill 101 concerning the Dow Chemical Company where they were being taken to court on a settlement in the United States in relation to injuries to employees. I was wondering what position the Workers' Compensation Board is prepared to take, when we take a look at the situation of Johns Manville in Ontario. I understand they are no longer in operation but they have a number of outstanding claims that are pending for possible compensation.

What do we do in this instance with your unfunded liability? How do we go after them in case you have a number of awards made to persons who have become injured in the respiratory tract through working with asbestos? How do you go after a company that is not in business any more?

Hon. Mr. Alexander: Mr. Russell is here, he may be able to answer that question. I hope he will be able to give you something, I know it is an issue. Perhaps Mr. Reilly could start it off for us and let you know just what has happened since the board has been involved with Johns Manville which went out of existence and now I think you will find they have set up another company or something, doing similar work or work that would lead one to believe that Johns-Manville is still around. I think that is the best way to put it.

Mr. Reilly: When a company ceases operations in Ontario and there is no longer a source of revenue from that company, nevertheless if claims do arise and the individuals have entitlement under the act, then, of course, their claims would be honoured and paid and the costs would be charged against the accident fund and other employers in that particular industry who are still continuing on would be responsible under the collective liability principle.

Mr. Haggerty: How can they be liable if they are not in business any more, particularly companies who go into bankruptcy who do have a number of injured workers on claims? I think the report mentioned something about the difficulties at Johns Manville and how they get the settlements made for the injured workers and where was the money going to come from.

If you are going to have problems that are going to compound in this particular area, you will never get to the bottom of correcting the problem of unfunded liability. I raised it the other day but, for some unknown reason, I cannot find the article. I thought I had it with me this morning.

(Mr. Haggerty)


It raised some concern with me that we are having the same problem here. I suggested the other day that maybe you should be looking at additional bonding by the industry itself and perhaps open the door for new industries to locate in Ontario. We should have some guidelines to protect existing industries that we are not going to have something like a fly-by-night operation that, once they are in here and get established, they want to change their policy and locate in another country or something else. We have had it with Westinghouse, we have had it with General Electric which has pulled out of some of its operations and gone some place else. We could have this same thing happen again.

When it comes to the assessments, when you get the older industries or the new industries coming on that have to pick up this tab for the errors in calculations and judgements that took place in the past--

Mr. Reilly: So you are thinking of the offshore type company--

Mr. Haggerty: Yes. You have a Johns Mansville now and is this matter going to compound with the new changes in technology? If you even at the new changes in technology, I think...

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is
(Mr. Haggerty)

R-1225-1

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~~You have got it with John Manville now. Is this matter going to compound with the new changes in technology? If we even look at the new changes in technology, I think of the Saturn project that General Motors is coming forward with now. For example, it takes them 205 hours to build an automobile. With this new program that they have, they can complete that car in 30 hours. You can look at a number of employees who will lose their jobs over this, a number of them who are going to have workers' compensation claims, assessments against injuries and they are not going to be picking up that tab of their assessment. Who is going to pick it up? Are we going to spread that out through all the other employees? I do not think that is justified.~~

Mr. Reilly: To the other employers?

Mr. Haggerty: That is right. This is what is happening right today.

Mr. Reilly: After we go for the lunch break, I will come back to you in the afternoon. How is that?

Mr. Chairman: Thank you. It is probably time for the break then.

Mr. Haggerty: I may find that article.

Mr. Chairman: Before we do, I would like to have an indication of how many will be definitely attending on Tuesday to take the bus from here out. Those who will be definitely attending to take the bus? Four. Mr. Haggerty, can we count on Mr. Mancini to attend? It was his suggestion. I would think that he should be here.

Hon. Mr. Alexander: Mr. Chairman, in order to get the game plan, could we bring Mr. Haugh now? I think he wanted to ask a couple of questions about this visit. I do not want to keep the committee longer than what you had anticipated in terms of a break. Mr. Haugh, could you sit at one of the microphones there, sir?

Mr. Laughren: What is this for?

Hon. Mr. Alexander: Your hospital visit.

Mr. Haugh: I just want to find out if there are any special things that people want to do or see at the centre.

Mr. Laughren: I think all the committee has a copy of the letter by the Association of Injured Workers' Groups about the committee sitting down--just the committee members, not the board officials--with representatives of the people at the rehabilitation centre for, even if it is only half an hour or an hour, to talk. I do not think it is a case of getting into individual cases. I do not think the committee members want that either. It is a case of talking about the rehab centre.

Mr. Haugh: Sure, they talked about the members of the Monday night patients' representative committee. Certainly, we could arrange that either at the lunch break or at the 4:30 break. It is your choice. I guess the lunch break would be the most appropriate time. There is no problem with that at all.

Mr. Lupusella: Injured workers will not miss their lunch as a result of that?

Mr. Haugh: What we could do is probably have a place where you could have lunch with the members of that committee to have that discussion.

Mr. Laughren: That is better.

Mr. Chairman: I think we talked in terms of going just for the morning and being back here for two o'clock in the afternoon.

Mr. Laughren: Play that by ear.

Mr. Haugh: We will try to find an appropriate time for that. We do not, obviously, want to interrupt anybody's achievement program, but let us try to find an appropriate time when that could occur. That is no problem.

Is there any part of the centre that someone has a particular interest in? Otherwise, we will do a general overview. I do not know how else to handle it. If there is anything in particular someone has an interest in, I would be happy--

Mr. Laughren: Make sure we see the room with the two-way mirror.

Mr. Haugh: Absolutely.

Mr. Lupusella: I had an opportunity to visit the rehabilitation hospital of the board on several occasions, and I think that members of this committee would be interested, if I can speak on their behalf, in the nature of the treatments which injured workers are receiving.

Mr. Haugh: Sure.

Mr. Lupusella: It would be useful to have an overall perspective about certain complaints which we might hear from time to time. It will be a useful exercise really to know what is going on in relation to the principle of treatment.

Mr. Haugh: You are talking about seeing the treatment areas?

Mr. Lupusella: Yes.

Mr. Haugh: No problem there. Physiotherapy, occupational therapy?

Mr. Lupusella: Right.

Mr. Haugh: That was intended, certainly.

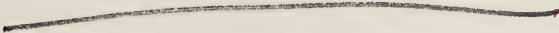
Mr. Lupusella: There is an agreement there?

Mr. Haugh: The gym, yes.

Mr. Lupusella: I saw the hospital at least four or five times.

Mr. Haugh: No problem at all with touring the treatment areas. There will be a member of the medical staff available to answer questions about the treatment program and there will be an overview of the program before we take the tour so people are aware of what we are seeing in the tour.

The committee recessed at 12:29 p.m.



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R-87
(Printed as R-51)



STANDING COMMITTEE ON RESOURCES DEVELOPMENT
ANNUAL REPORT, WORKERS' COMPENSATION BOARD, 1983
THURSDAY, FEBRUARY 7, 1985
Afternoon sitting
Draft transcript

STANDING COMMITTEE ON RESOURCES DEVELOPMENT

CHAIRMAN: Barlow, W. W. (Cambridge PC)

VICE-CHAIRMAN: Villeneuve, N. (Stormont, Dundas and Glengarry PC)

Havrot, E. M. (Timiskaming PC)

Lane, J. G. (Algoma-Manitoulin PC)

Laughren, F. (Nickel Belt NDP)

Lupusella, A. (Dovercourt NDP)

McKessock, R. (Grey L)

McNeil, R. K. (Elgin PC)

Reed, J. A. (Halton-Burlington L)

Riddell, J. K. (Huron-Middlesex L)

Watson, A. N. (Chatham-Kent PC)

Yakabuski, P. J. (Renfrew South PC)

Substitutions:

Gordon, J. K. (Sudbury PC) for Mr. Villeneuve

Haggerty, R. (Erie L) for Mr. Reed

MacQuarrie, R. W. (Carleton East PC) for Mr. McNeil

McCaffrey, R. B. (Armourdale PC) for Mr. Havrot

McLean, A. K. (Simcoe East PC) for Mr. Watson

Pollock, J. (Hastings-Peterborough PC) for Mr. Yakabuski

Also taking part:

Wildman, B. (Algoma NDP)

Clerk: Arnott, D.

From the Workers' Compensation Board:

Alexander, Hon. L. M., Chairman

Cain, D., Associate Secretary

Darnbrough, A. J., Executive Director, Vocational Rehabilitation
Division

Haugh, G. A., Executive Director, Communications Division

McDonald, J. F., Executive Director, Claims Services Division

Mitchell, Dr. R. I., Executive Director, Medical Services Division

Reilly, R. D., Assistant General Manager, Executive Division

Warrington, T. D., Vice-Chairman of Appeals

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON RESOURCES DEVELOPMENT

Thursday, February 7, 1985

The committee resumed at 2:07 p.m. in committee room 1.

ANNUAL REPORT, WORKERS' COMPENSATION BOARD, 1983
(continued)

Mr. Chairman: I recognize a quorum. Mr. Haggerty, you had the floor when we adjourned for lunch.

Mr. Haggerty: Mr. Chairman, I left you a copy of the article in the Globe and Mail on February 5, 1985.

Mr. Chairman: Okay, carry on, I will look for it.

Mr. Haggerty: I made reference to this article in the paper, it is from the Associated Press in Report on Business in the Globe and Mail. It says, "Manville reaches settlements with three more insurers. Manville Corp. of Denver says it has reached a settlement with three major insurance carriers over payment of millions of dollars worth of asbestos-related health claims.

"If approved by the United States Bankruptcy Court in New York, the settlement would end the majority of Manville's disputes with insurance companies over payment of the claims.

"The three insurance carriers--Insurance Co. of North America, Midland Insurance Co. and Allstate Insurance Co.--have agreed to pay up to \$112 million (US) under the settlement, Manville said,, nearly as much as Manville had sought.

"Manville filed a lawsuit in 1981 in US District Court in San Francisco against about two dozen insurance companies that had provided liability coverage for Manville since the Second World War. At issue was which companies were responsible for paying thousands of asbvestos-related health claims.

"Last summer, the company reached agreement with Travelers Corp., Home Insurance Co. and a British consortium led by Lloyd's of London. That agreement settled about half the claims Manville had made in the lawsuit. The settlement amounted to about \$315 million."

It goes on to say: "For years, asbestos was used to fireproof and insulate buildings, until scientists learned it can cause cancer or an emphysema-like condition known as asbestosis.

2:10 p.m.

"Manville also faces more than 19,000 health claims mounting into the billions of dollars ...

(Tape R-1410 follows)

(Mr. Haggerty)

~~12,000 health claims mounting into the billions of dollars~~ from individuals or survivors of people who said they were injured by contact with asbestos."

I bring that to the attention of the committee. I mentioned before about the industries that may go into bankruptcy or cease operations in Ontario and close their doors due to the economic climate.

I know that there are difficulties in your rate assessment to the industry and they are a little bit uptight about the proposed increased rates to them. I feel that there have been a number of industries that have ceased operations in Ontario that perhaps will have of related accident claims against that industry or the latency of some of the industrial diseases may show up five years down the road when the business is no longer operating.

I feel it is unjust that someone has to pick up the cost of this and it is spread over the present assessment increases to all the remaining industries in the province at a considerable cost. I am concerned about the unfunded liability which may increase in the years to come in this area.

I suggest to you that maybe the compensation board should be buying additional insurance, even from Lloyd's of London which is perhaps one of the most reliable sources of insurers, and that would cover the loss of these industries that may go down the tube or cease operations in Ontario.

Some place along the line we are going to have to find some way to protect the existing industries in Ontario. We can see, through new technologies, that fewer and fewer people will be employed in the industries and I suggest that it is going to cause you some difficulties.

The chairman says he is concerned about the unfunded liability. It could increase in this particular area until some steps or measures are taken to reduce the possibility that you are going to have a serious number of future claims, particularly through industrial diseases.

Hon. Mr. Alexander: Mr. Haggerty, all I can say at this particular time, except Mr. Reilly may add something to what he has already said, but I think what he has indicated would be a collective liability approach to workers' compensation looks after this particular situation.

I think I was mentioning earlier that there are certain policy decisions that would have to be made necessarily by the new corporate board, whoever that may be and whoever is going to be in on it. There are things such as this, I think, that it would be appropriate to place before the board in order to look at your first suggestion--I think you talked about bonding--and then you talked about additional insurance.

(Hon. Mr. Alexander)

There is no such right within the act at this particular time to consider that sort of thing, but I think it should be worthy of some very serious consideration. I would think that this is the sort of thing we could bring before the policy part of the new board's deliberations.


However, right now, the whole collective liability process under the Workers' Compensation Board looks after this sort of thing. In other words, if a person has been injured or a person has been disabled, then he is going to get money and the cost of it, in the long run, is going to be apportioned within the industry and/or within the whole gambit of industries. Right now, that is the approach that we take to it.

I think you have a point, that it should be looked at, and I can undertake that it will be looked at in order to see just what is the next step or whether this is a satisfactory step, is it going to adversely affect the unfunded liability in the long run.

Right now, I think the collective liability principle philosophy of the board looks after contingencies such as see. Whether it is satisfactory or not, for now I guess it has been, but if there is a possibility of firms going bankrupt, if the layoff situation, and not only bankrupts but firms that are going out of business through perhaps no fault of their own.

I think it is a point that has registered well and I am sure that we will be looking into it, but I think, for the moment, that the whole collective liability, it is the shared cost by industry.

(Tape R-1415 follows)



(Hon. Mr. Alexander)

~~...that it has been registered well. I am sure we will be looking into it. For the moment, it is the whole collective liability. It is the shared cost by industry.~~

Mr. Haggerty: I appreciate your comments. The other area of concern is that I have had some problems in handling an appeal, particularly as it relates to a third party who was involved in the accident. In one particular case, a chap worked at General Motors in St. Catharines, but he was with the iron workers. By accident, he was hit, not by a vehicle he was handling, but somebody else had run into it and there was a third party involved in it--another contractor on the site.

It should have been explained in more detail to him when the claim was accepted by the board that there was this option to go after the third party for a settlement. It has gone by now and after seven years he does not have a chance and neither has the board, but there are areas there perhaps you should be looking at where further action should be taken where there is a third party involved, that their insurance should be picking up some of the costs instead of a direct cost to the workers' compensation, or there is not even an award given to the injured worker on it.

Hon. Mr. Alexander: I think there is. I think you are talking about a third-party accident which can result in this.

Mr. Haggerty: I know there are provisions there where they can go after this.

Hon. Mr. Alexander: There is an election form that is used. I will not go into details because I do not know that much about it other than to give you the broad impression I have that there is an election that is used by the injured worker that if he has that right to sue, he can, but in the meantime he can take benefits on the board and we are subrogated to his right. We then sue and if there is anything left over, as the case may be, he will get.

Mr. Haggerty: I know you have provisions there. How many cases do you have in a year where you can proceed in this area if you want to move it?

Hon. Mr. Alexander: I will have to get that information for you. I do not think it is in our report. I think it is third-party suit you are talking about, how many we have had over a year, how much we have collected. There has been some question about how much we have collected. On page 27, in 1983, it was something like \$1.87 million collected from third parties. The process is there. Maybe one of my colleagues can advise when the injured worker is informed that he does have a right. He can either take compensation or he can sue, but if he does take the compensation, we are subrogated. I see Mr. John McDonald looking. Perhaps he can carry on from there.

Mr. McDonald: On the report of accident which we request from the employer, there is a statement as to whether or not there is a third party involved in the accident. As soon as a third party is identified, we seek advice from our legal services division to advise us as to whether or not such right does exist and we issue an election form to the injured worker advising him of the option of taking action or electing to seek compensation.

In certain circumstances, if both employers are covered under the provisions of schedule 1, then both of the parties, in their course of employment, there is no right of action. However, if the third party is to blame, we would consider a transfer of costs from one employer classification to the other. That is another option.

Mr. Haggerty: But the claimant--

Mr. McDonald: He is advised.

Mr. Haggerty: --he is given this legal advice too as to what his rights are? Sometimes I do not think that is explained to him in detail, that he has that option. That perhaps he should proceed, advise the board to move in that area. He gets the thing and says, "What is the option"?

If a person is employed for a Canadian firm here working in the United States and there is an accident over there, he has the right to take that option there. He can go after them either over there or on this side.

Mr. McDonald: There is a letter to the man telling him that he does have that right. What he is normally going to do is consult a solicitor. We cannot tell him, "You are better off to do this or do this." That is a decision the injured worker has to make himself.

Mr. McKessock: I am sorry, I came in late. Are you saying that if he does take the third party action, then the workers' compensation bows out?

2:20 p.m.

Mr. McDonald: That is correct. If he subrogates his claim to us, then we would take the action on his behalf, in his name, and any recovery over and above the costs of the claim would...

R-1420-1 follows



~~(Mr. McKessock).~~

~~...any action then, the workers' compensation bows out.~~

Mr. McDonald: ~~That is correct. If he subrogates his claim to us, then we would take the action on his behalf, in his name, and any recovery over and above the costs of the claim would be given to the injured worker, less whatever the costs were related to our obtaining that recovery--any court action or whatever. It would be considered by our legal services division.~~

Mr. McKessock: I would think then he would probably take the route to let you do it for him, unless he thinks his legal services are better than yours.

Mr. McDonald: My personal opinion--and strictly personal?

Mr. McKessock: Yes.

Mr. McDonald: I would agree with you.

Mr. Chairman: Is this a conclusion, or are you still on that.

Mr. Lupusella: No, it is ??merging something from one level of power to the other one, which is the Ministry of Labour.

I was really shocked about the position taken by the government in relation to Bill 101, specifically the imposition of a ceiling. You know where we stand on that issue. But more surprising, I read that Professor T. G. Ison--

Hon. Mr. Alexander: Terry.

Mr. Lupusella: --Terry--was appointed by the Minister of Labour on a contractual basis and gave recommendations about issues which have been dealt with by Bill 101. As a result of the passage of the law, we know where the government stands.

At any rate, talking about the ceiling, in his report he stated:

"The original justification for the ceiling rested upon a false assumption. It was assumed and asserted that a worker with earnings above the ceiling would be insured the additional earnings by making his own arrangements with an insurer. That was generally not so."

Even by having this particular recommendation, a further study by Professor Ison, and understanding also that the majority of the workers are not reaching the maximum of \$31,500 which has been set by Bill 101, and those knowing the formula which has been accepted by Bill 101 and by the legislative process of 90 per cent of the net--workers at the lower level are going to lose some money and in the course of the debate we demonstrated why--why did the government appoint people to have opinions expressed?

(Mr. Lupusella)

We had Professor Weiler's report. We had the government white paper and then Professor Ison was appointed to give further recommendations to the Minister of Labour and the minister, on a decision taken by the government, is even rejecting his opinions. He was opposing the ceiling. I think Professor Ison was on our side. He was supporting our position that no ceiling was supposed to be set on Bill 101.

Do you have any particular justification of the consistent refusal of the government and the Minister of Labour to repudiate the conditions coming from Professor Ison?

Mr. Gillies: I would say a couple of things about that.

First, I am trying to recall the figure, but with the ceiling we have now set under Bill 101, a very high percentage of all workers would be covered under that ceiling. It was 95 per cent. It was the vast majority. I do not wish to rehash at length the arguments we made during the committee hearings, but the vast majority of workers would fall under that ceiling, regardless.

With regard to the professor's study, it would seem in keeping to me with the other steps that we have taken through Bill 101 to make the board and its processes and the ministry's responses to these issues more broadly consultative and representative. Just as the corporate board will be moving towards a more broadly representative makeup, so the minister from time to time might

R-1425-1 follows



(Mr. Gillies)

~~resposes to these issues, more broadly consultative and representative, just as the corporate board will be moving towards a more broadly representative makeup, so the minister, from time to time, likes to consult with various experts in various fields so that he has the best feel for the advice he is given on these various issues.~~

I am trying to recall, and Mr. Cain was trying to recall, whether that report was made available to the committee members during our hearings on Bill 101. Was it not? I thought it came to light in one way or another, but I will--

Mr. Chairman: Yes, it was.

Mr. Gillies: Yes, it was. Was it excerpts or the full report that we brought forth?

Ms. Dumbrell: Yes. It was the full report.

Mr. Lupusella: I do not recall it.

Mr. Chairman: At least we had excerpts. ??There may have been the report.

Mr. Gillies: There was so much material, but I do recall at least parts of that report was put before the committee for their consideration so that you could share with us the advice on that particular issue that was given to the minister.

Finally, just the other point he made--Tony, I do not want to rehash the whole thing again.

Mr. Lupusella: No. You do not have to. I am just--

Mr. Gillies: But I was somewhat attracted to the 90 per cent net formula because it did give more of a break to many injured workers with dependents and people with families who have dependent children and with extra expenses. I think many of them were given more of a break by the net versus gross formula. While it may have a few specific problems, overall it was a move in the right direction.

Mr. Lupusella: You support your own position and the position if the government and the 90 per cent of net makes sense to you. We were favouring 100 per cent. Therefore we cannot accept the justification given by the minister at the time, and the position taken by the government.

Professor Ison goes further, even on other principles which have to do with other matters, such as age, page 46 of his report which talks to the issue of indexing for inflation. He states: "The need for compensation benefits to be indexed for inflation is obvious." Again, it was something which was completely rejected and it was, again, the position which was reinforced by Professor Ison in his report based on principles coming from Professor Weiler.

(Mr. Lupusella)

I think the Minister of Labour was ill-advised on taking the position which he took in relation to Bill 101.

On the issue of the corporate board, Professor Ison recommends that the corporate board should consist of disabled workers. I believe you gave us some statements in relation to the appointment of people and this process is going on in the near future, but I would like to make sure that disabled workers will be appointed to sit on the structured corporate board. I hope that the minister will support such a principle which has been called by representatives of injured workers and reinforced by Professor Ison, as well. Do you have any idea as to whether or not the minister will appoint disabled workers to the structured corporate board?

Mr. Gillies: What I would say is that in Bill 101, among the categories of people who are called for to join the corporate board are workers.

Mr. Lupusella: It is vague.

Mr. Gillies: I am trying to remember the exact wording, whether it said "workers" or "representatives."

Mr. Lupusella: There is no specification.

Mr. Gillies: Yes. It says, "Not less than five and not more than nine part-time members who shall be representatives of employers' workers, professional persons and the public." Mr. Lupusella, it is not at all unreasonable to assume that from time to time some of the worker representatives on the new corporate board could have been injured at some point.

2:30 p.m.

Mr. Lupusella: If I may reinforce that principle, I think it is very important that disabled workers will be appointed from the very beginning, because the very beginning is a signal of the development--

R-1430 follows

(Mr. Lupusella)

~~I think that is very important that disabled workers will be appointed from the very beginning, because the very beginning is a signal of the development of something which, on theory, should be new. I would not like to see disabled workers sitting or appointed to the restructured corporate board eventually in three or four years' time, in which certain guidelines and new directions have been set by people, that in theory, and maybe in practice, based on the principle of the section which you just read, are representatives of the total population of the workers across Ontario.~~

Professor Ison makes particular reference to disabled injured workers to be appointed. Now you are giving a possibility or you are expressing a possibility that in the future, the minister may or may not appoint disabled injured workers. Do you have for us a clear indication of the minister's intentions as to whether or not he has in mind to appoint disabled injured workers who, under the new, restructured corporated board, will be set by appointing the new people? It is a clear and direct question without going into various limitations.

Mr. Gillies: Yes. My clear, direct response is that, to date, there has been a request in writing from injured workers' groups. I believe it is the ??AIWG--I may stand corrected on that--who have requested the appointment of injured worker or workers on the board and that the minister has that under advisement and has notified them back that they will be given every consideration, along with other suitable applicants. So, it has happened, the request has come forward, and is, at this time, being considered.

Mr. Lupusella: Let me understand well what you are saying, because, again, you are getting into vague statements.

Mr. Gillies: No. I do not think that is vague at all.

Mr. Lupusella: Okay.

Mr. Gillies: They have asked and the minister is considering it. It is not theory; it is fact.

Mr. Lupusella: Okay. I want to be really clear so there will be no misunderstanding. Because even the section in Bill 101 is clear enough, the representatives of the different sectors of our society, which means to have representatives of injured workers. So, I might appoint someone, such as Professor Weiler, who is an expert on Workers' Compensation Board matters and injured workers' concerns and, in the minister's opinion, he is a representative of the needs of injured workers. I might even get into ??typical situations.

Professor Ison was really clear on the act and there is no misunderstanding. He supports the principle that disabled injured workers will be appointed. He does not talk about representatives. The law talks about representatives.

(Mr. Lupusella)

If you appoint disabled injured workers, they will represent the needs of injured workers. I want to get a clear and a straight answer from you as to whether or not the minister will appoint disabled injured workers sitting on the newly restructured corporate board?

Mr. Gillies: I will be as clear and direct as I can.

Mr. Lupusella: Do not be vague. You have been trying to tackle the issue, but--

Mr. Gillies: I know.

Hon. Mr. Alexander: He is not the minister, either.

Mr. Gillies: I know. That is okay. Let me tell you again--

Mr. Lupusella: And not his deputy assistant.

Interjections.

Mr. Gillies: Let me tell you exactly what has happened. We have seen the section in the act which--

Mr. Lupusella: I do not have any quarrel with that.

Mr. Gillies: --calls for, among other things--

Mr. Lupusella: ?? problem with that section was rejected.

Mr. Gillies: I remember that--calls for workers' representatives. To date, prior to the July 1 proclamation of the bill, at this very time, the Association of Injured Workers Groups has asked formally, in writing, for the appointment of an injured worker or workers to the corporate board. The minister is giving that his serious consideration, at this time, along with the appointment of other people from all of the various representative type that we have discussed in the bill.

Mr. Lupusella: In support of that application coming from--

Mr. Gillies: All I can tell you is it is on the minister's desk and that he is giving it every consideration.

Mr. Lupusella: I want you to be a messenger of something else. Besides that request coming from representatives of injured workers, can you make sure that he will get the message--

R-1435 follows



Mr. Lupusella: ~~I want you to be a messenger of something else. Besides that request coming from representatives of injured workers, can you make sure that he will get the message from my friend, Floyd, and myself, to give us a guarantee or a solid commitment that disabled injured workers will be appointed, not representatives? If there is any misunderstanding of the issue, to go back on page 43 of Professor Ison's report and I am sure he will not misunderstand the message.~~

Mr. Gillies: I will give you the commitment here and now that the appointment of the types of people of whom you speak will be given every consideration by the minister, and is now being given every consideration by the minister.

Mr. Lupusella: So persistent. Can you be more ??direct?

Hon. Mr. Alexander: No, you cannot.

Mr. Gillies: Let me turn it around on you a bit, Tony.

Mr. Lupusella: Do not turn it around.

Mr. Gillies: Seriously, when the injured workers groups--you have a very legitimate concern.

Mr. Lupusella: Disabled injured workers.

Mr. Gillies: Yes. You have a--

Mr. Lupusella: Never mind about their request. This is a different request.

Mr. Haggerty: He wants a political appointment.

Mr. Lupusella: I do not want a political appointment.

Mr. Haggerty: You may call it patronage.

Mr. Lupusella: I want disabled injured workers to be appointed.

Interjection.

Mr. Lupusella: Never mind their request. This is something else. This is a new request. Disabled injured workers--you cannot miss the message.

Mr. Gillies: No. Okay. What you are saying then is that you think it insufficient that the association has requested representation on the board.

Mr. Lupusella: Never mind the association now.

Mr. Gillies: That is fine. I would suggest that any suitable--

Mr. Lupusella: Say "yes" or "no" to disabled injured workers. Anything else, commitments like that--

Mr. Gillies: I would urge you to bring forward any suitable applicants, who are disabled, to the minister now for consideration, or as soon as possible.

Mr. Chairman: There is a deal for you.

Mr. Gillies: He cannot appoint--

Mr. Lupusella: I do not know what a suitable candidate is.

Mr. Gillies: Tony, he cannot appoint somebody of whom he is unaware.

Mr. Lupusella: ??I am talking about disabled workers.

Mr. Gillies: The minister cannot recommend the appointment of someone of whom he is unaware.

Mr. Lupusella: ?? speaking Italian or English.

Hon. Mr. Alexander: No. He is giving you the opportunity--excuse the word--

Interjections.

Hon. Mr. Alexander: He is now giving you the opportunity to canvass the field in order to put names on the minister's desk.

Mr. Gillies: How much more can I do? The minister may clip me for saying this: I cannot tell you here and now that any single person, be he disabled, be he a worker representative, be he an employer representative, is going to be appointed to the corporate board. What I can tell you is that if you bring forward names of suitable applicants, the very type of person that you are advocating, that if you either bring them to me or bring them to the minister, we will make sure that it gets before him and gets every consideration. That commitment I will make to you right here and now.

Mr. Laughren: Does the chairman have a say in this?

Mr. Lupusella: Mr. Chairman, what he is looking for is that the next provincial election is so close, he wants me to undertake this task, instead of ?? out and do my work as a politician. At any rate, I want to hear Floyd ??

Hon. Mr. Alexander: I would also put my position on the paper. I would be delighted to see a disabled worker on the board, because they would be part and parcel--

Mr. Lupusella: He is more open.

Hon. Mr. Alexander: Well, that does not mean to say--

?? Mr. Gillies: How much more can I say? Bring forward the

Hon. Mr. Alexander: He is just as open. It is not my prerogative to appoint, but keeping in mind that all we have is from five up to nine and I think we say--

Mr. Lupusella: That is why I did not raise the issue before you ??

Hon. Mr. Alexander: You are going to have only nine of these people, and I can think of a few straight off the bat--management, labour, the farm community wants representation--there are three gone already--a lawyer, a doctor--there are five--and I mentioned the injured worker--there is six. Then there are some from where?

Mr. Gillies: A representative from the injured workers groups.

Hon. Mr. Alexander: Yes. Seven, representative of employers, workers, professional persons, and ?? includes a lawyer, a doctor and a chiropractor--I do not know--and the public. But you have got nine slots.

What the board is looking for is the kind of board that you will get the input from various constituencies so that when policies are handed down, everybody is going to hang or sink with those policies because they are going to be there with regard of a policy decision-making process.

2:40 p.m.

Mr. Laughren: Mr. Chairman, I am uneasy with the chairman of the Workers' Compensation Board's grasp...

R-1440 follows

~~(Hon. Mr. Alexander)~~

~~... everyone is going to hang or sink with those policies because they are going to be there in relation to the policy decision making process.~~

Mr. Laughren: ~~I am uneasy with the chairman of the compensation board's grasp of this whole problem.~~ I was reading about him in the Wall Street Journal at noon today.

Hon. Mr. Alexander: Me? In the Wall Street Journal?

Mr. Laughren: I think it was you. I wrote down this quote: "Top managers must learn to cultivate ignorance. The higher you go, the less you really should know about what is actually going on."

Hon. Mr. Alexander: That is not a bad statement. That is why you delegate authority because, in the long run, the less you know can mean that if anything happens on a lower level, you can always say, That it is wrong and I am going to change it."

Mr. Laughren: Right, I understand that.

Hon. Mr. Alexander: Do you understand how the policy works now?

Mr. Laughren: I read the Wall Street Journal regularly. I am one of the few socialists who reads the Wall Street Journal.

Hon. Mr. Alexander: But I did not know I was quoted. It will be a welcome addition to my scrapbook, if it is a fact. Let me see it. I am going to put that in the priority part of my scrapbook. It is a good quote.

Mr. Lupusella: I left the floor to Floyd about the proposal made by Mr. Gillies. You have a right to your input and such undertaking.

Mr. Laughren: We have his undertaking now.

Mr. Lupusella: I hope Mr. Gillies will convey the message to the Minister of Labour (Mr. Ramsay). It is not a request coming simply from us. Professor Ison supports the principle of having injured workers sitting on the new board. I do not think it is my duty to recommend the names. I am busy with my daily work as a politician, so that I hope he will announce that ??different ways, whoever is interested among injured workers and so on, and representatives of injured workers can maybe name some other people instead of me undertaking the task of doing so.

Mr. Gillies: I would suggest, I know the association is monitoring these hearings very closely. They will be aware of this discussion and of your concern that injured workers themselves, as well as representatives, be included. Through the medium of these hearings, I think they will also be aware of my offer on behalf of the ministry to entertain any such applications.

Mr. Lupusella: Getting back to a different topic, which is the experience rating plan for individual employers, I guess the chairman can brief us about the new approach which will be used and what kind of policies you will have in place until such a plan will be in place. I know that it is more or less different than the present method. An experience rating plan was rejected by us during the course of several debates taking place in this committee and in the Legislature. I hope the WCB has a plan or a central policy now that this experience rating plan is going to be applied for all individual employers.

I also would like to know whether or not such a plan is going to increase the total revenue of funds coming from employers or this new method of experience rating system will diminish the total income of assessment coming from the employer groups covered under different stages of Bill 101.

Hon. Mr. Alexander: Yes, the board is involved in an experience rating plan right now, being plans devised by, one of which is a construction association, I believe. One deals with frequency in cost and the other one deals with cost only. These plans have been devised by interested parties for the approval, if you will, of the board, which we have approve. They are out in the field now on a two-year trial period. The bottom line is that the good employer will be . . .

1445-1 follows



(Hon. Mr. Alexander)

~~...out in the field now on a two-year trial period. I guess the bottom line is that the good employer will be recognized and the bad employer will be penalized. I guess that is how you can put experience.~~

I am sure Mr. Neal will be able to be more specific. But there are a couple of plans out there now, one of construction I am sure of that, which we have accepted. They are out in the field. We are getting feedback now but they really are not the board's plans. I think we should make that clear.

I guess, in the long run, we will have something that will meet with the expectations of all those who have an interest in experience. I am sure Mr. Reilly can give you more than that.

Mr. Lupusella: I understand it will be a plan which is going to be widely applied to all employees. My particular concern is to find out whether or not the yearly income coming from different stages of assessment will be getting into the board's funds as a result of the new system, which will be the experience rating system, will increase the funds or diminish the funds. I am talking about global and total income. I am sure that the actuaries of the board did some study on that topic. I am sure they got into the principle of dollars and cents of the plan. I would like you to share with us this type of information if you have it. I am sure you must have it.

Hon. Mr. Alexander: I am sure Mr. Reilly can help you somewhat, sir.

Mr. Reilly: Mr. Lupusella, as far as the experience rating plans are concerned, there is a plan known as computer-aided design, CAD or CAD7. This is a plan that has been developed by the construction industries in the province. It has been applied to the construction industry.

There is a second plan that is being designed by the Imperial Forest Industries, and has also been adopted by the petroleum industry. It has been looked at by several other industries at the present time.

These two plans will, as Mr. Alexander has said, recognize the safer employer, the one with the lower costs as far as the second plan is concerned. The first plan will recognize those in the construction industry for both frequency and costs. They will not be a source of revenue to the Workers' Compensation Board. It will be a matter of distributing funds between the employers that act safely. The other employers will have a penalty against them.

Mr. Lupusella: I was more interested in the total income coming from this new plan which will be implemented. I understand how the system will work, that an employer with a better record is going to have the assessment diminished while the one with the worse record, he or she is going to see the assessment increased.

(Mr. Lupusella)

But playing with dollars and cents, will the total revenue coming from the experience rating system be as much as the present one? Will it increase or diminish?

Mr. Reilly: The experience rating system will be a source of revenue. They are not, and have not been introduced as a source of revenue for the Workers' Compensation Board. It is there for the purpose of promoting safety within the employer community. It is not a source of revenue. It will not boost the Workers' Compensation Board revenue.

2:50 p.m.

Mr. Lupusella: So, actually, I have a different impression on how the experience rating system will be implemented. Unless I got the wrong message while we were debating Bill 101, or even before, it appears that the general funds of assessment will be applied as they are, that the principle of the experience rating system will be in place in case the board, or that particular department looking after the assessment, will notice that companies with a better record are going to see their premium or assessment increased as a result of a better record of accident. The one with the better record--

(Tape R-1450 follows)



son
(Mr. Lupusella)

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~~...the record--are going to see their premiums or assessment increased as a result of that record of accidents. The one with the better record will have the assessment diminished.~~

Maybe I did not get the message straight from the beginning. I thought it was a completely different approach on the assessment per se for employers, but what this section is talking about is the implementation of a principle just to help employers with a good record and penalize employers with a bad record and nothing else.

Mr. Reilly: It will help to promote safety within industry, we believe.

Mr. Lupusella: Indirectly, I see a manoeuvring of funds as well within the plan--am I supposed to assume that the total income will be the same because it will be balanced and there is no extra revenue coming from the employer's pocket and the bad apples, the bad employers who have a bad record, will pay more and the ones with better records will pay less but the balance will be the same in relation to the total revenue assessment principle of money going into the board's funds? So it will be the same.

Mr. Reilly: That is correct.

Hon. Mr. Alexander: It is really to promote safety.

Mr. Lupusella: The issue of prevention has always been vivid in our minds and in people's minds from other sides of the House. I hope the Workers' Compensation Board will now have the power to join the efforts of \$26 million which will be spent on accident prevention now, plus all the public educational programs which you have in place to alert employers about accidents and so on. Now you have some teeth in the law which gives you an opportunity to pinpoint the bad apples, the bad employers. I hope you will use this power wisely and forcefully to deter employers with bad accident records in the work place. I hope you will do that. I am looking forward to next year, if I will have the opportunity to be the critic again, to see some concrete results in the 1985 annual report--

Hon. Mr. Alexander: The 1984 report.

Mr. Lupusella: In 1984--when will it be implemented?

Hon. Mr. Alexander: The report?

Mr. Lupusella: It will be in 1985, I guess.

Mr. Reilly: The construction ??industry plan was implemented last fall and forest products plan will be implemented this year.

Mr. Lupusella: I hope the number of total accidents will decrease, on the annual report for 1985. I am looking forward to see the new numbers. I hope it will be much less than 344,758 as a result of this section.

Hon. Mr. Alexander: I appreciate those remarks. I hope the experience rating plans that are in effect now--I am getting letters from certain employers who are a little dismayed at knowing they have to pay a little more money. Sometimes it is quite a chunk. In light of the fact that it is not our plan, we have often told them to go to the office of the plant to register their concern about it is doing to them as a business. In any event, it is the wish and desire of all of us to see that in the long run experience rating does mean something in terms of a safe work place.

Mr. Laughren: I believe there is a new division in the board that has to do with safety associations. I was confused when I heard about it, and I am still--

(R1455 follows)



~~(Mr. Laughren)~~

~~... a new division in the board that has to do with the safety associations.~~

~~Hon. Mr. Alexander: Yes.~~

~~Mr. Laughren: I was confused when I heard about it. I am still confused as to what it is. What are they for? What does it do?~~

Hon. Mr. Alexander: I have a booklet here. Two or three years ago, we found something lacking with respect to the operation of the safety associations notwithstanding they were doing an excellent job in our view, but there was a question--

Mr. Laughren: But there was something lacking.

Mr. Lupusella: Let us leave this argument aside.

Interjection: There is always room for improvement.

Hon. Mr. Alexander: We found they should be more under the direction and control of the board. At that particular time, the board in its wisdom said we should bring about a new structure, keeping in mind that what we were interested in was a tripartite approach which had not been in existence at the board before and it is something a lot of sectors would appreciate if they had. What we now have, rather than the old safety education division, we have what they call the occupational health and safety education authority. It is made up of a representative of labour, a representative from business and between the two of them, they pick a chairman. That is the makeup of the authority with respect to the top level. There is the tripartite. We canvassed industry, labour and I am pleased to say that those slots have now been filled.

Mr. Laughren: Is that the one Mr. Cooke is on?

Hon. Mr. Alexander: That is right. He is the labour representative on the authority. You asked earlier who was the chairman, and I think I mentioned the new chairman was Bob Book, so that is in place. As well, you now have what is called the joint policy review board.

I will just read from the pamphlet that has been brought forth by--

Mr. Laughren: What does this have to do with this committee though? Is it part of this committee?

Hon. Mr. Alexander: Just a minute, the joint policy review board was established on July 1, 1984. The joint policy review board acts as a forum for management and labour to address problems of health and safety education, to make recommendations on these questions to the authority, and to provide it with policy direction.

(Hon. Mr. Alexander)

The 12 review board members are appointed for three-year terms by the board after broad consultation with the labour and management communities. Members are chosen for their knowledge of and experience and interest in health and safety education. They are not expected to be advocates of any institution or interest group, rather they will serve broadly the community from which they are selected. The chairman of the review board is also the chairman of the occupational health and safety education authority and two administrators sit on the review board as ex officio members.

What is extremely important here is once again we have approached the issue by way of tripartism and we now have, in place, 12 members from management and 12 members from labour--no, six and six rather--six from management and six from labour--

Mr. Laughren: Your empire is big enough as it is.

Hon. Mr. Alexander: I do not know whether it is a big empire or not. I think it is an extremely important initiative that has been taken by the board.

Mr. Lupusella: Keep in mind the Roman empire.

Hon. Mr. Alexander: As long as I am still king, then everything is all right.

Let us just read something else: Relationship with the occupational health and safety educational authority--recommendations to the education authority by the review board will be acted upon when they are consistent with the health and safety education policy of the Workers' Compensation Board, consistent with Ontario's health and safety education structure, and within the financial resources made available for these programs by the Workers' Compensation Board.

The review board is responsible for its own internal policy and procedure. Its financial requirements will be authorized by the education authority.

Mr. Laughren: It would be nice to have a copy of that.

Hon. Mr. Alexander: I will give you this copy, but this is printed and is available now.

Mr. Laughren: I have trouble seeing how this fits in. You still have your safety associations out there. There is the construction, the mining--

3 p.m.

~~Hon. Mr. Alexander: By way of the act, yes~~

1500 follows

~~Hon. Mr. Alexander: I will give you this copy, Mr. Laughren, but this is printed and it is available now.~~

~~Mr. Laughren: I have trouble seeing how this fits in. You still have your safety associations out there, in construction, mining--~~

Hon. Mr. Alexander: By way of the act, yes; construction, ??IPA, ??ACU--

Mr. Laughren: Yes, but there are three safety associations; right?

Hon. Mr. Alexander: There are nine, but these are going to be reporting. The safety associations are under the control and direction of the authority and, feeding into the authority, is the policy advisory group whose responsibility I just-- The safety associations are the field people, if you will, who are there.

We indicated earlier, I think Mr. Haggerty wanted to know, it would be nice if secondary students would know, that is what they are doing now. The authority and the policy advisory group will enhance or impact on what they are doing now.

Mr. Laughren: Do you think there is any hope that they could engage in some meaningful statistical collection and, secondly, to--

Hon. Mr. Alexander: I am sure that is what they will be doing; there is no question about that.

Mr. Laughren: Secondly, to advise the safety associations on the kind of advertising that would be more appropriate at this time?

Hon. Mr. Alexander: I remember you saying that before. All that is being looked at. There is a duplication of services there, advertisements, TV, the whole thing is being looked at now by this authority, which is advised by the policy advisers.

You can see, with all due respect to what has happened in the past, this is a much better structure, if you will. I say it is better because it is an improvement on what we had before. What is even more important, as I keep on emphasizing, is the fact that you now have management and labour--and I guess you know, Mr. Laughren, that is not always the easiest thing to bring together--sitting down to determine what is the safety education program of this province going to be in the future.

I am very enthusiastic about it; I cannot help but be enthusiastic because, in the first instance, I must say there were some problems with getting the authority together. If you can understand, sometimes suspicions have prevailed but, no, that came together, we were able to get ??Stu Cooke, we were able to get ??John Ride out, we were able to get ??Bob Butcher from British Columbia. I cannot give you the names of the ?? but they are well represented.

Mr. Wildman: Can I ask a couple of supplementaries?

Mr. Chairman: Yes, welcome to the committee, Mr. Wildman.

Mr. Wildman: I would like to know, with regard to the comment Mr. Alexander made about the possibility of statistics collection and dissemination, am I to understand that one of the educational approaches that might be used by the authority would be to collect statistics, say, on particular types of compensation cases that related to industrial disease in particular work places and in different types of work places, that advise industry and labour of areas that seem to be of particular concern, say with regard to lung cancer and that type of thing?

Hon. Mr. Alexander: I cannot answer that directly but I think it is something they should be apprised of and I guess the policy advisory group would be interested in something like that. On the other hand, I must state that you more than likely know that we have coming on front now the new industrial disease standards panel which I think is moving in the direction that you would like to see and I think that is the sort of thing that they could take countenance of.

So I think you have both of those new bodies, if you will, who will be looking at the whole gambit of safety, industrial disease, the effectiveness of the programs, statistical information that can be gathered in order to see how they can improve on the programs.

I think the whole ball of wax is in the lap of the authority and the policy advisory now and a further ball of wax is going to be in place for the industrial disease standards panel. As you know, that is a very important initiative that has been brought forth by Bill 101.

Mr. Wildman: The other question, and maybe it has been dealt with earlier, is: What is the budget of the authority, how much money have they got?

Hon. Mr. Alexander: I think it is around \$2 million or \$3 million, I am not sure. I think that is close.

Mr. Hugh: \$3.5 million.

Hon. Mr. Alexander: \$3.5 million, and that is just the authority. In other words, that is the expansion of our old safety,...

(Tape R-1505 follows)



~~(Hon. Mr. Alexander):~~

~~...I think it is around \$2 million or \$3 million. I am not sure, but I think that is close.~~

~~Mr. Haugh: It is \$3.5 million.~~

Hon. Mr. Alexander: Is it \$3.5 million? That is the expansion of our old safety education of the business. I think the budget for the nine safety associations was around \$30 million in 1985 but it was in the book for 1983 at \$26 million, I hear Mr. Lupusella stating.

Mr. Laughren: Could I ask you a question of just one-on-one?

Hon. Mr. Alexander: Is this going to be a hot question on one-on-one?

Mr. Laughren: Just between you and me.

Hon. Mr. Alexander: Then let us have the room cleared. It cannot be between you and me if the whole room is listening, but let us go ahead. I am hear to listen.

Mr. Laughren: You say that it is up from \$26 million to \$30 million now. I know you would not want to embarrass anyone, but so help me, I cannot see that almost \$30 million wisely spent. Is it your feeling, are you comfortable with that kind of money that goes directly from the board, I gather, to those associations? I really find it hard to take.

Hon. Mr. Alexander: Sir, I think I am relatively comfortable. When these associations bring their budgets before the boards they must justify their existence. We are talking about nine different safety associations. You have the Industrial Accident Prevention Association, you have the Construction Safety Association, you have the Electrical Utility and Safety Association, you have the Farm Safety Association, mines accidents, hospitals, transportation, thanks very much.

Have I left anything out? Yes, maybe two. They bring their budgets before the board. It is even more important now because we have this new authority now that is giving us an excellent opportunity to peruse budgets, to let the board know when these budgets are through and say: "We are experts on this being the authority and advised by the policy advisory group." They can tell you: "Look, they are doing a reasonably good job. There are improvements needed. There must be more questioning with respect to particular programs."

I have taken a long run. Yes, I think we are satisfied up to a point, but I think there is always the need for improvement. In other words, we have to justify that money. It is coming out of the fund, if you will, and it is supposed to promote safety education. Hopefully, I hope it has made an impact.

Mr. Laughren: I am not opposed to the principle.

Hon. Mr. Alexander: No, it is whether the money is well spent. I think we always have to look at budgets.

Mr. Lupusella: Am I correct to state that last year you gave us a commitment as a result of particular concerns raised by Floyd, others and myself, that the money was not well spent considering the number of accidents taking place in Ontario? We do not see any concrete improvement in the declining of injuries in Ontario so, therefore, we gave a recommendation that you would revise the distribution or organizational aspect of the programs which are in place by this organization to promote prevention of accidents on the job. You gave us a strong commitment that you and the board would do that, that you would do something about it in the changes you made.

Hon. Mr. Alexander: I do not see you reading from anything. I will just take it for granted that you are close to what I may have said. But I do not think I ever said that the safety associations are not doing a good job.

Mr. Lupusella: We said it.

Hon. Mr. Alexander: You said that I said that.

Mr. Lupusella: No, we said it. We said that we find your advertising offensive.

Hon. Mr. Alexander: All right. Fine. I think that particular issue was with respect to asbestos.

Mr. Laughren: No, it was not just with asbestos. The general attitude is the general fault for accidents.

Hon. Mr. Alexander: It is going to work. We are looking at that as well. As a matter of fact I think that you brought this particular advertisement--

Mr. Laughren: Every year.

Hon. Mr. Alexander: No, there was one that was more assessed, that is what I was going to say.

Mr. Lupusella: No, the asbestos was the worst.

Hon. Mr. Alexander: That will be looked into. Those types of advertisements will be looked into. There is no question about that because everybody knows that certain people found that one that dealt with asbestos was offensive. Some people thought that it was not. It delivered a message.

Mr. Laughren: It was onerous as well as offensive.

Hon. Mr. Alexander: I saw the ad^{yes}.

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follows

(Hon. Mr. Alexander)

~~He saw the ad, yes~~

Mr. Laughren: Did you not feel it was honest?

Hon. Mr. Alexander: Well who was the "we" employer?

Mr. Laughren: Employers.

Hon. Mr. Alexander: Employers and injured worker.

Mr. Laughren: Do you think the employers did not know the dangers of asbestos?

Hon. Mr. Alexander: And the audience.

Mr. Wildman: The first cases were brought into the United States in the 1930s.

Hon. Mr. Alexander: Gentlemen, we can debate this--

Mr. Lupusella: This is one aspect of a criticism.

Hon. Mr. Alexander: That is right.

Mr. Lupusella: That aspect of criticism was the effectiveness and structures and how the money is spent to prevent accidents.

Hon. Mr. Alexander: I have told you--

Mr. Lupusella: With respect, last year we were not talking about a new authority. We were talking about the older structures, the old act and so on. I said I would have agreed with you that there was no need for restructuring the methods and how the money was then spent in 1982 if the statistical data of accidents across Ontario would decline.

In the past decade, I have seen an increase in the number of accidents and therefore I drew my conclusions that the effectiveness of the \$26 million is badly spent. I drew your attention to that situation. I said something was wrong with the organizational aspect and how the money was spent, the nature of the programs and what they are doing to promote prevention.

You gave me a commitment that would take a look at the organizational aspect.

Hon. Mr. Alexander: Right and I complied. What did I just finish telling you sir?

Mr. Lupusella: You were talking about something else.

Hon. Mr. Alexander: No, no. If you can recall that what I said had to do with the safety education division to which the nine safety associations were put under its control and direction. We felt that there should be a greater emphasis brought forth by a new kind of board division if you would.

Mr. Laughren: They were not doing their jobs, we know that.

Hon. Mr. Alexander: In order to see to it that the several concerns we had, as well as people on the outside including MPPs, would be addressed. Having said that, I then said we now have a new authority which is tripartite. We now have a policy advisory group which is also tripartite that is looking into all and several of the problems involved with safety education programs, budgeting, spending of money, etc. so forth. I cannot do any more than that. All I can say is your concern got to us. We then moved in a direction which I hope you will accept. All I can say I hope that as a result of labour and management getting together in these two new structures, that you will see marked improvement. I think that is everybody's wish.

Mr. Lupusella: I would suspect this marked improvement in this annual report.

Hon. Mr. Alexander: You are back in 1983 sir.

Mr. Lupusella: We were talking of 1982, last year.

Hon. Mr. Alexander: No sir, I am talking about 1984.

Mr. Lupusella: The spending of the \$26 million which in some years even reached \$30 million.


Hon. Mr. Alexander: Everybody has an increase because of cost of living. Your salary goes up.

Mr. Lupusella: The money which is spent in that area, even though I appreciate the commitments which you undertook last year to restructure that particular board by having more representatives of labour and so on, it does not please me yet because I do not see a decline in the number of accidents.

Hon. Mr. Alexander: Sir, I would like to see a total wipeout of accidents completely. We are on target with that. You said it and I said it. The way to get rid of the board is by creating a safety work place where there are no accidents and if there are accidents, once the injured worker is rehabilitated, let the employer rehire him or her. Then we have a clean sheet. You do not need me. You will not be in here.

That is the dream world. I think what we have to do is to continually be apprised of the need to upgrade safety education, continually comprised of the desire to let labour and management, in particular the latter of which is in control of the work place, to create a safer worker environment, whether we are talking about the plant per se, or whether we are talking toxic substances, etc. and so forth. The message has to be spread by me. The message has to be spread by you and I am telling you that within our authority and within our mandate, we are trying our best to meet the commitment which I know you would want--

R-1515-1 follows



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(Hon. Mr. Alexander)

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~~--end so forth. The message has to be spread by me. The message has to be spread by you and I am telling you that within our authority and within our mandate, we are trying our best to meet the commitment which I know you would want us to meet, by bringing about these authorities, closer scrutiny of the budget, see that the programs are contemporary, seeing that they are effective enough, seeing that they are making an impact in terms of accident rate. I hope you can accept that we are not doing a bad job.~~

Mr. Lupusella: I accept the program if the program is going to show me clear indication it is working.

Hon. Mr. Alexander: Time will tell.

Mr. Lupusella: Well 1914, okay, never mind, never mind.

Mr. Wildman: Mr. Chairman, I think we should--

Mr. Lupusella: Why do you not implement--

Mr. Wildman: The Wall Street Journal just pointed out recently that for all of the efforts to improve safety on the jobs the fact is that statistically workers are safer at home than they are at work.

Hon. Mr. Alexander: I think I can leave this place and fall out on the floor there, or I can be out in the garden cutting the grass. I think this is a very complex problem but the thing is are we addressing it sir?

Mr. Lupusella: You are trying to address it, but the goal is not achieved and the goal you would like to see achieved and which I would like to see--

Hon. Mr. Alexander: I would like to see a perfect work place and I know that is like whistling in th dark. But having said that, you must continually impress upon management, which is in control of the work place, you must continually impress upon the worker that he has to be safety conscious.

Let me put it this way. I will just repeat myself. Yesterday we had a television interview. You may not have been here when I said this. A number of little children approached me when I was on TV trying to justify my position. Somebody wants me to be fired, Alex ??Farfor and I know why, but that is beside the point. A number of little children said, "We want your autograph." I said, "Do you know who I am?" One said: "Yes, you are the chairman of the workers---

Interjection

Hon. Mr. Alexander: Never sir, never.

Mr. Lupusella: He is a lawyer as well.

Hon. Mr. Alexander: That is what you say.

Mr. Lupusella: You are not respecting people of this occupation.

Hon. Mr. Alexander: He is lucky I mentioned his name because I have lived long enough that you do not mention anybody's name. You do not give anybody any publicity--okay, fine.

When these children approached me and they wanted to know who I was, I said to them: "Do you know what I do?" They knew. They said: "You pay people who are injured on the job." I said: "That is right." I said: "What I want you to do is to go home and tell your mommy, particularly your daddy or mother if they are working, to try and be as safe as possible in the work place. Look after themselves." This is the God's truth. I am not exaggerating. And, I said: "As far as you are concerned, be careful when you are crossing the road. Be careful when you are using tools, etc." That is the kind of thing that all of us should be doing.

Mr. Lupusella: I agree with you and I share one aspect of this program, prevention of accident. I think the media tool is effective with some loopholes, the one which we described. But we support the principle of it.

Hon. Mr. Alexander: That stuff is expensive too.

Mr. Lupusella: I think each commercial I see on TV, I always call my kids to make sure they see it and they know what is wrong in it. I like that. But take the pilot project, I think the programs which are in place for prevention are not giving the results that you would like to see and I would like to see.

I would attest the premise if for a year you are going to cut certain programs, except for the ones which are part of the media, radio devices and so on and you are going to cut and trim the other programs to find out if really they are worthwhile to be used, then at least you have clear evidence to say: "Well Tony, I think last year you were wrong because now the number of accidents really jumped to 450,000 injuries.

Mr. Haggerty: Was he wrong last year?

Mr. Lupusella: I have my own reservations that certain programs are ineffective.

Hon. Mr. Alexander: All you are saying, like I can say to you, one of these days you hope to be the panacea as far as a MPP is concerned. You may have reached that stage right now, I do not know.

Mr. Lupusella: You are so optimistic.

3:20 p.m.

Hon. Mr. Alexander: Have you reached that stage now?

R-1520-1 follows



~~(Hon. Mr. Alexander)~~

~~one of these days you hope to be the panacea as far as a member of parliament is concerned. You may have reached that stage right now, I do not know. And I am not trying to be funny.~~

~~Mr. Lupusella: You are so optimistic. I do not know why you are so optimistic.~~

~~Hon. Mr. Alexander: Have you reached that stage now?~~

Mr. Laughren: Very close.

Hon. Mr. Alexander: I am the first one who says the board is not perfect, but being realistic, I think we have to bring about the public perception, which I hope we try to do, even though we have some who do not think we are doing a hell of a lot. Excuse me, Mr. Chairman. But as long as we are trying to do the best we can under the circumstances, in the long run the proof will be in the pudding.

As I said, these things are always monitored, they are being monitored. We have a new authority. We have new expertise coming on board now. It is going to be the panacea, I hope. In the long run I cannot tell you now whether it is going to be a success but I can tell you now--

Mr. Lupusella: My friend the Jesuit, Floyd--??

Hon. Mr. Alexander: Never mind the Jesuit.

Mr. Lupusella: --is telling me that 20 years of the board's history and \$25 million and \$30 million spent on that particular field is not reducing the number of accidents, I think you should give it serious thought.

Hon. Mr. Alexander: I disagree.

Mr. Lupusella: Never mind the panacea you dream about.

Hon. Mr. Alexander: He does not have any statistics. I will say this: I disagree with him. This is a debatable point and I do not know who is going to win.

Mr. Gillies: Surely you would agree that the moves that the ministry has taken in terms of setting up the authority within the board is a move in the right direction.

Mr. Laughren: Why was it necessary?

Mr. Gillies: I have listened to you and your friend Mr. Laughren for several years--his honour--with your complaints about the way--

Mr. Lupusella: He is not saying so.??

Mr. Gillies: --no, but the way the associations were functioning and the material they were putting out. Surely, it is

is
(Mr. Gillies)

a move in the direction that you have advocated for some of that responsibility to be moved into different hands.

With respect specifically to the asbestos commercial, we listened very carefully to the complaints that you made in the House and in committee and my minister had some considerable discussions with the Industrial Accident Prevention Association which, I think, led to the removal of that particular commercial.

Two points: first, would you not agree we are moving in the right direction and I hope you would give the minister and the chairman some credit for listening to the very things that you have been telling us for a few years.

Mr. Lupusella: We gave an opportunity and chances for 70 years now. We hope that some day we will see some--

Hon. Mr. Alexander: Why do you not bend over backwards and be a little charitable? Say, "Chairman, thanks very much for moving in the direction which we wanted you to go."

Mr. Lupusella: I do not have any reservations about saying that.

Hon. Mr. Alexander: Say it.

Mr. Lupusella: I support what you have just said.

Hon. Mr. Alexander: I do not want to put you on the spot.

Mr. Lupusella: You do not have to. My friend the Jesuit, Floyd, is always telling me that history should be seen and studied to get new direction and to move towards new directions. In three years' time we are still talking about the same problem.

Hon. Mr. Alexander: What I like about the committee is there is a reluctance by certain members to say, "Gee whiz, you have done a good job in that regard." Now, I have heard that since I have been here. There have been a number of flattering comments made. I just wanted you to admit. You have already done it, so I will stop talking so we can get into the next point.

Mr. Laughren: I just want to make it clear that it is very hard for the son of an Orangeman to take being called a Jesuit.

Mr. Chairman: That is a point of privilege, is it not?

Mr. Laughren: While we are on the subject of flirting with perfection, which the chairman claims that my colleague is doing, I wonder if I could mention the director of the rehabilitation division at the Workers' Compensation Board, Mr. Darnbrough, who has not quite achieved perfection yet. I did want the committee to know that tomorrow he is celebrating a birthday and that I would not want to guess his age but a few minutes ago he had to go and sit back there because he was having hot flashes.

Mr. Gillies: Are they compensable hot flashes?

Mr. Laughren: In the rehab division they are.

Hon. Mr. Alexander: An early happy birthday. Let the record show Arthur Darnbrough is having a birthday tomorrow.

Mr. Chairman, shall we move along?

Mr. Gillies: We could be at this two more days.


Mr. Lupusella: I will move along really fast, Mr. Chairman.

Going back to the principle of the experience rating system, I hope that next year in the 1984 annual report we are going to have an opportunity to see some statistical data and breakdown information about the issue.

I understand that the Quebec report, which is called Commission de la Santé de la sécurité du travail??--

Mr. Laughren: Very good.

R-1525 follows



~~Mr. Laughren: That is very good.~~

Mr. Lupusella: I learned French with the Jesuits.

Mr. Laughren: The Orange lodge never taught me French.

Mr. Lupusella: They are more detailed in releasing statistical data and so on. I know that the chairman said he will undertake this new task which will not cost the board any extra money anyway, but I hope that in relation to programs about accident prevention and the association and how they spend their money and so on we are going to have a breakdown of information about that topic, too, in the annual report of 1984.

The Quebec report is also giving a greater degree of tabular financial trend data by regions.

Hon. Mr. Alexander: Do you find it better, Mr. Lupusella?

Mr. Lupusella: I did not see the report because it is all written in French. I did not have time to go through, even though I understand French and I read French. I did not have time. I think that the general principle which is emerging from the Quebec annual report is that it is giving more information to the public about the activities of the board with statistical data for each region of the province and statistical data, for example, about the experience rating system, pensions and so on. It is something which we would like to see incorporated within the annual report in 1984.

There was an improvement, we give you credit, in the 1983 report in certain aspects, and I hope that--

Hon. Mr. Alexander: If I may just stop for a minute, sir--and I do not want to brag about this--I am a past president of the International Association of Industrial Accident Boards and Commissions, which simply means that it is a group which is comprised of the United States and all of the jurisdictions in Canada, as well as overseas, England, Australia--maybe not England. Anyway, it is an international body. I am pleased to say that our annual report--am I mistaken, Mr. Haugh--received first prize last year and the year before, something like that. Whatever is done with all the countless--

Mr. Lupusella: What kind of prize did you get?

Hon. Mr. Alexander: Just a plaque saying it is first prize because you have the best annual report.

Mr. Chairman: No cash awards?

Hon. Mr. Alexander: No cash. I just wanted to let you know that even though you may find our report lacking--and I say that we are continually striving to improve--that this august body, having looked at God knows how many annual reports they

(Hon. Mr. Alexander)

looked at--thought the Ontario report was excellent and deserving of first prize. Having said that, we do not stand on our laurels. We are going to improve so we can continually get first prizes.

Mr. Lupusella: There is more room for improvement.

Hon. Mr. Alexander: Always.

Mr. Lupusella: I am pleased that you are supporting the principle of improvement and you are taking our recommendations very seriously.

Hon. Mr. Alexander: Everything you have said I have taken very seriously. We may laugh now and again but that is just to bring a certain amount of levity here. Everything you say we take seriously.

Mr. Lupusella: Let us get into a different topic now, which is again Bill 101. There is a particular provision in the bill which talks about the older worker. I think that the particular section has to do with the supplement pension. There is no particular definition of what an older worker is. The act is lacking on the definition of an older worker.

I was just wondering if the board had formulated particular policies to define the phrase "older worker," what kind of limit on the age you are placing, so at least we have a clear indication of what an older worker is.

Hon. Mr. Alexander: Mr. Cain can answer that question, Mr. Chairman.

Mr. Cain: As you know, under the current act and the current policy, "older worker" has been identified as the worker at approximately 60 years of age. As I understand it, the ministry, when it put in this particular subsection, "an older worker," deliberately made it vague in that sense in order that the board could identify in a broader way.

3:30 p.m.

I remember Mr. Gillies on one day suggesting that perhaps it would be 57 years of age--

R-1530 follows



...in order that the board could identify it in a broader way. I remember Mr. Gillies one day suggesting that perhaps it would be 57 years of age. The point is that it is something under 60 and that while in most cases it will be effective with an individual who is probably in the high 50s in age, there is always that opportunity should particular circumstance with a particular worker exists that one could drop a little lower.

The point is that if you identified it with an age, you would be held to that age. Quite obviously in putting in the subsection, it was intended to be in "some age up"--some senior age, not a low age. It was deliberately vague. As I say, the board will identify it, I am sure somewhere in the high 50s but there may be the odd situation where it would be lower. Certainly when you go before the external appeals tribunal, it gives you a greater opportunity then if that specific age was identified.

Mr. Lupusella: I will give a supplementary question to my friend. First, I would like to know under the framework of the present act the principle of an older worker regarding the application of a supplement pension equivalent to old age security pension is in place.

I was wondering what kind of age limit is in place now. Do you have a specific age which has been spelled out by a specific policy of the board or are you using discretionary leverage to find out whether or not an injured worker is eligible for a supplement pension equivalent to the amount of money coming from the old age security pension? What kind of age do you have? Are you quite flexible or do you have a set of standards to define the age of an injured worker?

Mr. Cain: I probably would simply repeat myself, Mr. Lupusella because I can only say that it will be an age in the high 50s. It will be a generalized thing in the high 50s somewhere with an opportunity for that worker who may be not quite that old but because of very precise circumstances one might be able to identify someone somewhat younger. As you know, the person has to be someone who the vocational rehabilitation department has dealt with and has designated someone who probably will not benefit from a vocational rehabilitation program. Basically, I can reiterate that it is an older worker. It is someone around 57.

Mr. Lupusella: Let me ask Mr. Darnbrough then--because there is a relationship between the application of such benefits given to an injured worker and a rehabilitated injured worker that he will not benefit any longer from the rehabilitation process, therefore, the rehabilitation counsellor is, in most of the cases, recommending the equivalent of an old age security pension will be given on a form of supplement pension.

What age or ages we are talking about, whether it be 52 or 55 is something which your department, in accordance with the pension department has flexibility to define the merits of a specific case. The age really is not extremely important to find out whether or not a person is eligible or not.

Mr. Darnbrough: I should mention up front that we have not developed a specific age to determine that sort of entitlement. These policies obviously associated with Bill 101 are under considerable review. Experience will show us some things we need to know before we make those kinds of decisions. I must hasten to add that age is not a primary consideration in vocational rehabilitation, as you know.

Mr. Lupusella: The criteria.

Mr. Darnbrough: There are many aspects to determining whether or not the individual is interested in returning to employment and actively participating in doing so. We will be generating reports from vocational rehabilitation to the...

R1535 follows



(Mr. Darnbrough)

~~...not the individual is interested in returning to employment and actively participating in doing so. We will be generating reports from vocational rehabilitation to the~~ claims adjudication people who will make determinations about payment, and payments equivalent to old age supplements and so on, but there is no particular pattern or age that has been selected. Frankly, from a vocational rehabilitation perspective, I doubt I would be interested in trying to do that.

Mr. Lupusella: The reason I am raising this question again is that lately--not in my riding but in different ridings--I do not know why, I am identified with injured workers wherever I go--I have seen letters of rehabilitation counsellors now which is the equal of your department and I really praise that approach recommending a supplementary pension equivalent to the old age security pension because of the criteria which you have. I am not really critical about what the rehabilitation counsellors are doing.

I notice there is a change in the mood and approach, and that is the kind of approach I would like to see instead of the injured worker fighting for something. It must be the board taking the lead to give the benefits to injured workers because they are entitled to it.

From the letter which I say, it was just a recommendation made by the rehabilitation counsellor. There was no specific criteria, describing why the person is entitled. I was just curious to find out the criteria used, either by your department--I am sure you have been alerting the rehabilitation counsellors to use this approach for injured workers and again I praise that approach because I see a change of attitude. As the chairman said, it is a humanized approach, not because you are giving extra rights to injured workers, you are giving something which they are entitled to, without fighting, so the board is taking the lead and I really praise this approach. If this approach is going to be expanded on different levels and department of the board, Floyd and I will have to applaud the action taken. Then we will not have to represent injured workers before the appeal board.

Mr. Chairman: --consultation on that?

Mr. Lupusella: It was an editorial. We will ?? It was a public confession.

At any rate, I still do not understand the criteria. I praise the approach but I do not know the criteria. I know now the decision has to be taken by the pension department. What kind of criteria the pension department has to reach the conclusion to agree with the rehabilitation counsellor and the worker is entitled to that benefit.

Mr. Darnbrough: The perspective we attempt to take from a vocational rehabilitation point of view is, what is realistic? When we discuss the situation with the person who has the disability, obviously, we are looking at the person's level of interest in returning to the employment market. We look at that person's language skills, ??application, level of disability, and then the age factor obviously comes in as well. There are several factors to be taken into consideration between the counsellor and the injured worker in arriving at the conclusion.

The injured worker should not be attempting to return to employment at this stage of life, and accordingly, having reached that decision, that information would be recorded and forwarded on to the pension adjudication people for the ultimate decision.

Mr. Lupusella: Is it safe to say that the range of age, even though that is the most important to decide as to whether or not the person is entitled to that benefit, is between 50 and up, besides the other elements which you have just described?

Mr. Darnbrough: I would think probably this happens most frequently at about age 60. From our experience, that is generally where this takes place.

Mr. Lupusella: Not below 60?

3:40 p.m.

Mr. Darnbrough: Obviously, each of these factors has to be weighed. If all of the other factors play a very significant part of the decision, then age, even though it may only be 57, would still allow us to come to the conclusion that the person...

R-1540-1 follows



~~...other factors form a very significant part in the decision, than age even though it may be only 57, which would still allow us to come to the conclusion that the person, possibly, should should consider this type of equivalent to old age supplement rather than realistically attempting to fit themselves back into the labour market.~~

Mr. Lupusella: I appreciate that explanation, but I would like to see more clear guidelines, even though I would not like to see a definition of age, but I would like to see much clearer the age framework in which such entitlement along with the other criteria which have to be met--it should be described in clearer terms.

I understand the process. I understand the other criteria, skills and language and whatever, fiscal conditions and the kind of work a person used to do. The age factor, even though we would not like to see age 59 or 60--people should have a clear indication about the range of age when people can apply for it. It is a little vague.

Mr. Cain: Correct me if I am wrong. I made the observation that it is somewhere in the neighbourhood of 57 which gives you a circle around that age somewhere--

Interjection.

Mr. Cain: No. That is today. Today it is 60.

Mr. Lupusella: With the new act.

Mr. Cain: With the new act it will be something--Mr. Gillies mentioned it at one of the meetings. He thought the board might accept an age of "in the realm of 57" and so you go around that.

Mr. Lupusella: ?? spelled out. We have mumbling about ages, 60, 57, sometimes maybe less, along with the other criteria that must be met.

Mr. Cain: It is that ambiguity of age that gives one the opportunity though to put forth your point of view as opposed to us identifying a specific age and then rigorously sticking to it, and your saying "That is too darn old." It is the older age I do not appreciate.


Mr. Darnbrough: One of the difficulties of selecting a specific age is that you will come to the point where you will have to forget all the other potential influencing factors in some cases. If you say the age is 60, that means regardless of how much a person warrants it below the age of 60, then you cannot apply it. The way things are at the present time, though it is not as precise, it allows us some flexibility to deal in a very humane way with the actual injured worker's situation and condition.

Mr. Lupusella: The flexibility issue is something which I support, but it brings to mind the discretionary power the board has to give and not to give. I have some concern about that.

Mr. Laughren: It is not very often that my friend Tony and I do not share the same view. I do not have the same sense he has about the rehabilitation department. I want to save my remarks on rehab until another time. I did want to say a couple of things. One is about the older worker. I support the vagueness of it. My unilingual person in Chapleau who was told to relocate and would get disqualified from supplement because he did not want to relocate from Chapleau, a unilingual bushworker, which I thought was absolutely outrageous. That is the kind of thing the rehab department is still doing in collaboration with the pensions department. I do not know how you sort that out internally at the board. I am telling you. I do not share my colleague's feelings about the rehab department. I want to talk about that latter.

Second, when we are in a transition period, even though it is not technically transition. We are heading towards the new act. I wrote a letter to the chairman on this. I do not expect him to remember all the letters he receives. It had to do with someone who would fit perfectly under the new act as an older worker but who now does not. That is where the board should show a little humanity and recognize that for the sake of a couple of months that person should be regarded as an older worker--

(R1545 follows)



(Mr. Laughren)

... as an older worker, but now does not. I think that is where the board should show a little bit of humanity and recognize that, for the sake of a couple of months, the person should be regarded as an older worker and should not be treated as arbitrarily as the old act treats them. I think there needs to be some flexibility on the part of the board.

Obviously one cannot switch from 75 per cent of gross to 90 per cent of net during this period of time, but when one is treating a worker like that, I think one can treat him a little differently, in recognition of the fact that it is about to change in any case and not running contrary to the act. I think there could be more consideration there.

Mr. Darnbrough: An observation well taken. I do not think a comment is required.

Mr. Laughren: Except that perhaps you would consider this period of time and consider older workers a little more fairly than in the past, even though they might not be 60 years old, like that unilingual bushworker from Chapleau.

Mr. Darnbrough: Part III of the existing act has been amended, or will be amended as of the proclamation date to include reference to older workers in the existing bank, but it is not there now.

Mr. Laughren: That is a little different than the person I wrote to the chairman about in the last six months.

Mr. Darnbrough: So that part III does assist us in some way, Mr. McDonald?

Mr. McDonald: Yes, sir.

Mr. Darnbrough: That is a good point, Mr. Laughren.

Mr. Lupusella: Mr. Chairman, I do not want to leave any doubt that we have a disagreement with my friend Floyd, in fact.

Mr. Chairman: A split in the rank and file.

Mr. Lupusella: ?? change of direction of the rehabilitation counsellors doesn't mean that the issue over rehabilitation is solved for injured workers. In fact, I am leaving this topic to my friend Floyd to deal with in length at some time next week. I want to make a clear distinction that the global issue of rehabilitation for injured workers is not solved with a few places which I made in relation to new approaches which have been adopted by the rehabilitation department. I want to be clear on that so that there is no disagreement with my friend.

I have a question for the chairman of the board relating to funds of workers controlled occupational health and safety centres. The chairman used to represent Hamilton in the past, and you are still living in Hamilton?

Hon. Mr. Alexander: Yes. I cannot afford to live in Toronto, sir, you are right.

Mr. Lupusella: Did you ever become aware of the operation of the Hamilton workers occupational health and safety centre, which is now completely financed by local 1005 of the United Steel Workers?

Hon. Mr. Alexander: Ten oh five I know of.

Mr. Lupusella: Stelco, which was very well publicized in a recent article in the Globe and Mail, appendix B5, and they are not interested in receiving funds from the board. Because you are aware of the operation of this centre, do you have any justification why they are refusing funds from the board and why they are not applying for funds promoting ??

Hon. Mr. Alexander: I do not know why they have not applied.

Mr. Lupusella: Is there any particular disagreement or do they want to set their own operation in a way which is funded by the steel workers and so on, without any particular help coming from the board?

Hon. Mr. Alexander: Mr. Lupusella, I do not think an application has come before my desk with respect to that centre, but I am pleased, certainly--the act as it is presently drafted is not as flexible as one may think with respect to paying grants to support ?? agencies. and so on.

With the introduction of the new Bill 101, there has been an amendment, if I am not mistaken, that does give us more flexibility in this regard. On page 19 of the bill it says:

"To undertake and carry on such investigations, research and training and make grants to individuals, institutions and organizations for investigations, research and training in such amount and upon such terms and conditions as the board considers acceptable."

3:50 p.m.

and
Prior to this time, sir, I must be frank . . .

1550-1 follows



(Hon. Mr. Alexander)

~~make grants to individuals, institutions and organizations for investigations, research and training, in such amounts and upon such terms and conditions as the board considers acceptable.~~

~~Prior to this time, and I must be frank, it was not in every instance, it was in very few instances, that we could take money from the fund to get involved with matters such as this, and I think that this amendment now means that we can contribute towards an organization such as that.~~

However, to my knowledge, I do not think they have ever applied; I could be wrong. I think it is safe to say that, now that there is that authority, and depending upon what kind of criteria was set with respect to passing out money for grants and research and what-not, the type of organization about which you are talking will be given very serious organization.

However, we did not have that kind of trouble and, if we had tried to stretch it, I think we could have ended up in trouble because the act said we could only do certain things. Now that the act is opening, we hope that we will be able to do the sort of thing you are mentioning.

Mr. Lupusella: I am not aware myself that an application was ever made. In fact, this particular organization of workers are refusing; even though you had an opening door to give funds, they do not want funds. I was just wanting to find out the reason why they are refusing even to ask for funds, even though you have been given the power to give them.

Hon. Mr. Alexander: Sometimes agencies such as this are reluctant to get involved with government and/or government agencies.

Mr. Lupusella: For their own reasons.

Hon. Mr. Alexander: Principally because they want to be independent. I do not know the reason. I do not know whether they approached the federal government, the provincial government, the municipalities, McMaster University, the board--I do not think they have approached the board. I think it is up to the individual agency. As everyone knows, when they want funds it is not unusual for these types of organizations to write to their MPP, to write to me as their former MP, to write me as chairman of the board to see if we have money.

I must say there have been several requests since I have been around, people asking for money for purposes not unlike this but related thereto, and I have had to say no, that we do not have that authority. Now I think we do have the authority, as of April 1 or July 1, as the case may be, and I would think, once it gets to be known, we may have the floodgates open. I think we are going to have to be very careful with respect to what we do with the fund money because we are accountable to you somewhat, even though it is not public funds, but we are accountable to you as a result

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of these kinds of meetings and, as well, we are accountable to the employer. I know you may not want me to say that, but the reality of the situation means that they keep their eyes on us very, very closely and therefore I would like to have a clean slate any time I find that the employers are involved.

Whether you want to say it is their money or it is the money passed on to the consumer I think is begging the point. We have to be accountable.

Now that you, in your wisdom, have changed the act which will give us that flexibility, I think that we will be approached; there is no question about it. Who is going to get it, I do not know. What kind of criteria we are going to have, that will have to be worked out. How much will the individual or the group get, I do not know.

Mr. Lupusella: If I can move along on the same thing, I am sure there are several workers groups across Ontario, now that Bill 101 has given you the authority--

Hon. Mr. Alexander: Not quite, it has not given me the authority. I think what we have, the bill was passed on December 14 but--

Mr. Lupusella: Whenever it will be--

Hon. Mr. Alexander: Yes, April or July, I think I read that. You were saying we had the authority; I say we do not quite have the authority.

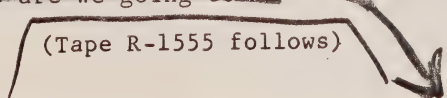
Mr. Lupusella: Now; then I misused a verb. When you do have the authority--

Hon. Mr. Alexander: We will look upon every application with very serious consideration.

Mr. Lupusella: You are going to take a look at the application. My suggestion is to find out really how many sets of groups there are in Ontario so they will be aware of the authority which the board will have when Bill 101 will be completely in place or, at least, they will be notified about this particular section and, when a group is going to apply, of course the application will be analyzed and revised by the board and the board will use its judgement as to whether or not funds must be given.

Hon. Mr. Alexander: I understand what you are saying but I do not think I could give you that blanket commitment right now. ~~I think the new board will have to sit down and see what kind of budgetary restraints are we going to~~

(Tape R-1555 follows)



Hon. Mr. Alexander: ~~I understand what you are saying,~~
~~but I do not think I could give you that blanket commitment right~~
now. I think the board, the new board in particular, has to sit
down and see what kind of budgetary restraints. Are we going to be
able to give away \$1 million--not give away--are we going to be
able to take advantage of this section by way of \$1 million, by \$2
million, or by \$15 million?

All I can say is before I can give you any commitment in
terms of notifying everybody that this section is here--I do not
even know whether I want to do that because it may hold out high
expectations to a lot of people, which expectations cannot be met
because we only have so much money.

I think you have got to give us an opportunity to sit down
with the new board, of which there will be the injured workers'
representatives, the injured workers themselves, management,
labour and others, to determine what does this section mean in
terms of the fund, how much can we afford, and I will just read it
again.

It says, "undertake to carry on such investigations,
research and training and make grants to individuals, institutions
and organizations for investigations, research and training in
such amount and upon such terms"--I do not know what that means;
that has to be looked into--"and conditions as the board considers
acceptable."

So before I can even give you any commitment, I think we
have to sit down as a board and determine what kind of criteria we
will have which will encompass the phrase "and upon such terms and
conditions as the board considers acceptable." The principle is
here, but I do not think we have the meat to follow it through. Am
I clear there?

Mr. Lupusella: Yes, you cleared the issue, and--

Hon. Mr. Alexander: Maybe it is not even ongoing
financing. I think that is something else I am going to have to
look at.

Mr. Lupusella: My intention was based on the principle
that the workers of the group should be notified about the new
authority and, of course, the final say on their applications is
left up to the board.

Hon. Mr. Alexander: Oh, yes. If you could help me in
that regard, Mr. Lupusella, I would appreciate you letting me know
who are the injured workers' safety groups.

Mr. Lupusella: I do not have the list, I said, but--

Hon. Mr. Alexander: You do not have it. If you can help
me. I notice we have ??sitting here, maybe they could write to me
and let me know who are these injured workers' safety
associations, not the representatives, but the safety
associations. Maybe there are one, two, 20 or 100. I am not too
sure.

Mr. Lupusella: I am talking of an organization or association such as the ??Workers Occupational Health and Safety.

Hon. Mr. Alexander: That one I know.

Mr. Lupusella: Okay. I am talking about similar organizations. I am not talking about Mickey Mouse organizations which they might claim, "We need \$100,000 to make research and safety and so on." I am talking about established organizations for workers occupational health and safety standards.

Hon. Mr. Alexander: I think an organization which could perhaps be of some assistance to us in this regard is the Centre for Occupational Health and Safety under the federal government, which headquarters is also in the city of Hamilton. That is another organization, which is a bigger organization, as you know, that may try to get under the umbrella group, although I think their funding is primarily from the federal government. They can be helpful to you in this respect in order to determine who is out in the field there who would be truly called an injured workers' safety association. I do not know of any right now other than this one. I do not know what they have out in the field.

Mr. Lupusella: Talking about the American experience dual award a little bit, even though it is not part of Bill 101, I understand that lately--let me see if I have the date--you had the meeting with representatives from Florida, and discussing the issue of the dual award. When was that and what did you discuss about it?

Hon. Mr. Alexander: I was not involved in any meeting with representatives from Florida.

Mr. Lupusella: Who was involved? Was it from Florida, Minnesota or Nevada? ??an opportunity to meet with them?

Hon. Mr. Alexander: Maybe you are talking about the International Association of Industrial Accident Boards and Commissions, of which I said I am a former past president as of last year.

Mr. Lupusella: Was the American Medical Association ??guides to the evaluation of permanent impairment?

4 p.m.

Hon. Mr. Alexander: I do not think that was discussed. Just a minute. I should not say no, that was not discussed. I do not know when it was discussed because, as a member of the executive...

1600 follows



February 7, 1985

Hon. Mr. Alexander: ~~No. I do not think that was discussed. Just a minute. I should not say: "No, that was not discussed." I do not know whether it was discussed because as a member of the executive I was privy to the meeting, but I did not attend because of my executive responsibility. There could have been discussions at the ??IIBC last year, but I am not too sure. There are several different committees that sit: medical, adjudication, administration and procedure, and safety. I think there are seven and I have missed one or two, but I cannot answer whether--Those are always ongoing questions or else issues that are discussed by not only that organization, but as well others.~~

I think Florida had the wage laws concept. It is one of the first states that has had it.

Mr. Lupusella: I know the organization, I am sorry. You met with Mr. ??Baxter Swing, director of a division of worker's compensation of Florida, Department of Labour and Employment Security.

Hon. Mr. Alexander: I know who ??J. Baxter Swing is.

Mr. Lupusella: They discussed Toronto and they met with you. Apparently it was last summer.

Hon. Mr. Alexander: No. ??J. Baxter Swing has never met with me as the chairman of the Worker's Compensation Board in my office to discuss problems about dual awards or wage loss. Your research document may have missed a few points there.

What did occur last year is that the International Association of Industrial Accident Boards and Commission held their annual meeting in Toronto to which ??Baxter Swing was invited because he is a member of the Board of Regents of the IIBC College, but there was no meeting per se with the chairman of the Ontario board with these people who you are talking about for a specific purpose.

If there was a meeting, it was as a result of a convention. There were representatives here from all over the United States, Australia and the several provinces and territories. As I said, the meetings are broken down into several, various committees and they in turn discussed matters of current interest that affect all boards, whether they are on states funds or self-insured, as the case may be, matters that are common to compensation boards and/or agencies throughout North America and, of course, overseas. It is just a big convention.

Mr. Lupusella: Was there no particular approach used to discuss a specific topic with an individual such as ??Mr. Baxter Swing?

Hon. Mr. Alexander: Not that I know; only at the meeting. The meeting would have an agenda. Perhaps Mr. McDonald has.

Mr. McDonald: I have never met with any representatives of the Ontario board concerning this particular issue.

Mr. Lupusella: No. I am not talking about the board, I am talking about the chairman.

Mr. McDonald: No. If, Mr. Alexander was meeting with Mr. ??Swing, he did not do it last summer and to my knowledge he has never met with him in our office or anywhere else to discuss this particular issue.

??Mr. Swing was only at the meeting for about one day and then departed because he was leaving the compensation profession to return to the practice of law in the state of Florida.

Hon. Mr. Alexander: Your research is wrong.

Mr. Lupusella: Maybe I do not have the full story.

Hon. Mr. Alexander: You have to talk to your researchers.

Mr. Lupusella: You had an opportunity to talk or to meet even though you did not discuss or maybe you met each other during the convention, something like this. There was personal approach which did not have anything to with the business of the board.

Hon. Mr. Alexander: There was no personal approach to talk about the subject you are talking about.

Mr. Lupusella: No, for other things. You discussed other things.

Hon. Mr. Alexander: We discussed anything that involved, not me, but those who were at the convention, some 800 strong.

Mr. Lupusella: So my research is wrong in the sense--

Hon. Mr. Alexander: I, personally, is wrong.

Mr. Lupusella: --that you did not discuss, you personally.

Hon. Mr. Alexander: That is right.

Mr. Lupusella: You did not discuss dual award--

Hon. Mr. Alexander: Not I, personally.

Mr. Lupusella: Somebody else did?

Hon. Mr. Alexander: Mr. Lupusella, I do not know what you are trying to say. All I am trying you, there was no approach made by members of the foreign jurisdictions to me to discuss the particular topic under discussion right now.

Mr. Lupusella: The dual award?



1605-1
Follows

(Hon. Mr. Alexander:

... In fairness, I had to say I do not know whether that was discussed in the adjudication committee of the ??IIBC or the claims committee of ??IIBC or finance committee, but that is a convention of which a number of problems are raised for the common interest of the member delegates throughout the North American continent and part of Europe.

Mr. Lupusella: Okay, I take your word.

Hon. Mr. Alexander: If I had, I would tell you.

Mr. Lupusella: Another point which I would like to discuss is the guides to the valuation of permanent impairment, 1984 edition. I am sure I am going to get a full explanation about the revamping process of the rating pension figures, based on the latest edition, 1984, of the USA. I understand that Florida's compensation system, along with several other American jurisdictions, are already using the updated American Medical Association guides to evaluation of a permanent impairment. I am sure the board has a copy of that already, because you gave us a commitment last year that the board will follow very closely the content of this guide.

I know certain states, such as Nevada, Vermont, have apparently legislated the use of the American Medical Association guides, and other states use the guides on a quasi-official basis. You have the 1984 edition. I am sure you must have it. What kind of progress has been made in relation to the Workers' Compensation Board in Ontario about the revamping of the figures and guidelines? Maybe it is appropriate at this point to have some answers on that.

Hon. Mr. Alexander: I guess we can tell if it is a permanent disability critical rating schedule. I can recall at the last meeting that Dr. McCracken who is the executive director of the medical services at that time indicated that there was a convention in Chicago and that we would be sending observers, members or whatever, to see what was going on with respect to this particular schedule. I do not know what has occurred since that time, but I know we have been actively looking at this particular schedule and perhaps at this time we have Dr. Mitchell, who is executive director of medical services, who can perhaps give us an update on what is happening in this matter.

Mr. Lupusella: As I stated, different states in the United States are already legislating the principles contained in the 1984 edition.

Hon. Mr. Alexander: In an updated schedule?

Mr. Lupusella: Yes.

Hon. Mr. Alexander: I am not too sure of that.

Mr. Lupusella: Yes, it is already in place. Other states are using the guides on a quasi-official basis. I know for sure that three states, in particular Nevada and Vermont, have apparently legislated--

Hon. Mr. Alexander: Legislated a schedule.


Mr. Lupusella: --for the use of the AMA principles contained in the guide. That was a strong concern raised by us last year. I know that the meat chart is too old, archaic, inadequate and so on.

Injured workers groups across Ontario have been condemning the content of the meat chart. Last year, we had this commitment that the board has undertaken a study based on the guides of the American Medical Association. Since last year, what kind of progress has been made? The guides have been made public since last year, or even before. They were talking about reshaping the meat chart.

Hon. Mr. Alexander: All right, we have Dr. Robert Mitchell here. I know he will be able to assist us.

4:10 p.m.

Dr. Mitchell: To answer one of your questions regarding...
~~the trip to Chicago~~
R-1610-1 follows



~~Mon. Mr. Alexander: All right. We have Dr. Robert Mitchell here, who will be able to assist us.~~

Dr. Mitchell: Sir, to answer one of your questions regarding the trip to Chicago, we sent two physicians down: the present consultant of our employment impairment rating, Dr. Young with one other physician to the American Medical Association meeting to get information regarding that. We have been working a way out of guidelines for permanent disability.

I have here draft no. 7, which I have just been reviewing myself. As you know, in a review it is a very complicated process. The practice of impairment rating has been established in Ontario for over 50 years. When you look at these reviews, you want to see what else is going in other jurisdictions in Canada, as well as what is happening the United States.

Each of the states have a separate system. The AMA gives guidelines which the states pick up. We have recently had from Minnesota their rating guidelines. So that these drafts necessarily are complex. Some of them can be exact, some of them have to be a judgement rating.

To answer your question in a short summary: Yes, we are working on it. You see here draft no. 7. I expect, if my criticism has any impact, there will be a number of other drafts. We will come forward, I hope, in time for July with a new guidelines. This is the medical side and there has to be co-operation with the claims division, the claims adjudicators and so forth.

Mr. Lupusella: I am quite pleased that there is some work in progress in relation to that even though this type of consultation was supposed to take place some time last year. With the implementation of Bill 101 and other injured workers will get the benefits of this reshaping process of the rating system which has been in place for so many years in the province.

I do not think there is any doubt in people's minds of the need for revamping the rates. There is no dispute about that. I understand you are deeply involved in that process. How many people besides you are involved in the consultation process? You told me you sent two people to Chicago. Why is it so difficult to get the guides to the evaluation of permanent impairment from the American Medical Association.

In other words you are going to have a group in Ontario at the board level to make sure you are going to define your own guides based on their premise of guides to the evaluation of permanent impairment. Why do you not follow this approach? Your approach will take longer.

Even though you might have some guidelines on the guides of the American Medical Association sometime in the near future, maybe July, I do not think you are going to incorporate the whole stature which is related to the rating of permanent impairment for injured workers. You already have seven guidelines there, right?

Dr. Mitchell: This is the seventh draft.

Mr. Lupusella: Oh, the seventh draft. You are talking about the global medical rating.

Dr. Mitchell: I am talking--

Mr. Lupusella: You are using a terminology which--

Dr. Mitchell: Yes, it is called "permanent impairment evaluation". It is the medical side.

Mr. Lupusella: Total process of the rating system.

Dr. Mitchell: Yes.

Mr. Lupusella: It incorporates everthing to the rating of permanent impairment.

Dr. Mitchell: This would have to go in with the co-operation of claims, of course, because the medical side give a percentage impairment which is then translated by the claims people into dollars and cents. Our involvement is to give a percentage of impairment, which tries to take over the whole aspect of the medical side.

Mr. Lupusella: If you can be a little more specific. I sure you know that for just one amputated hand the degree of disability within the present stature of the rating system is 50 per cent. If I can make a comparison with the new system which will be in place in the future, what does the 50 per cent mean now? That the percentage of disability is increased, for example, from 50 per cent to 55 per cent, 60 per cent. Can you give me some indication...

R1615 follows

(Mr. Lupusella)

~~...what the 50 per cent means now. The percentage of disability has increased from 50 per cent to 55 per cent, or 60 per cent. Can you give me some indication about percentage?~~

Dr. Mitchell: Not at this time, sir.

Mr. Lupusella: Not at this time. Okay. I also understand that the process which will be in place now is to refer this draft to the various departments to analyse dollars and cents which will be forthcoming with the implementation of the new charts. Am I correct?

Dr. Mitchell: Sir, I think our involvement in the medical services division is to try to get someone who deals with the principles of physical impairment evaluation. Then what has to happen beyond that is a separate issue, which we have not really moved towards because, as you can see, this is still in draft form.

Mr. Lupusella: You said the final draft will take place in July.

Dr. Mitchell: Yes, I hope prior to July.

Mr. Lupusella: You mentioned that July is the month when the new percentage of disabilities will be in place, or July is the month when the final draft is completed by your own group, of which you are a part, and you will send the final draft either to the corporate boards or other officials for further ratification. Can you be more specific about that? What is going to happen?

Dr. Mitchell: When we finish we are going to take those logical steps you just described. We are going to have to through it and then, eventually, be approved by the new corporate board.

Mr. Lupusella: Thank you very much. If I may turn to the chairman: I understand what Dr. Mitchell is saying. When injured workers across Ontario, based on what Dr. Mitchell told us today, we see a new clinical rating system in place implemented in which each division of the board will have an opportunity to implement the new percentages of all impairment.

Hon. Mr. Alexander: When?

Mr. Lupusella: When.

Hon. Mr. Alexander: That all depends on when it is--

Mr. Lupusella: More or less. I do not want to--

Hon. Mr. Alexander: I think that Dr. Mitchell hopes to have something in final form that he can present to the corporate board before July 1. I think that is what he said. If it is there before July 1 then I would say that when the matter comes before the board, subject to any questions that we have to address, it

(Hon. Mr. Alexander)

will be automatically instantaneous, I would say it would be within a day. In other words, if the medical documents will bring something into play here today for the corporate board to look at, and we approve it here today, then it is policy as of then unless there is some lead time required. I do not anticipate that. It will be a new schedule. It will be a new permanent disability clinical rating schedule that will be adopted by the corporate board and, therefore, it will be used thereafter. Hopefully, in terms of time frame, it will be before July 1 according to Dr. Mitchell's time.

Mr. Lupusella: According to the time frame the new scheduling system will be in place at the time when the full implementation will be one-on-one.

Hon. Mr. Alexander: That is expected. According to Dr. Mitchell he says that he hopes to have it in final draft and approved by the several divisions, one of which is claims, so it can be truly final for presentation to the corporate board. But he does not suppose it will be before July 1.

Mr. Lupusella: I do not want to dispute the contents of the new guidelines because I know how difficult they are. I am not a part of the medical profession because it is open to interpretation and just experts can have a close look at the implications of these guidelines. I know that the principle used in the medical rating of a permanent impairment is in an all-medical setting in which the people involved, and in the reading of that process, they have to give their own contribution to finalize the contents of the translation of percentages and figures coming from the clinical rating system.

4:20 p.m.

I understand very well there is a clear distinction between the conclusions and the recommendations, which your group has to make based on the premise of the guidelines coming from the American Medical Association. The recommendations which are, more or less, most importantly of a medical--

(Tape R-1620 follows)



son
(Mr. Lupusella)

R-1620-1

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~~...guidelines coming from the American Medical Association. The recommendations which are most importantly of a medical nature, for which the physician is responsible, and the ones which are not medical, the social and administrative ones, as you stated--there will be a calculation of dollars and cents based on the percentage and so on, economic and legal implications and in relation to the appeals system when appeals will take place--from injured workers disputing the percentage of disabilities.~~

The reason I was so concerned about the process--I cannot be extremely critical of the process because I do not know the content of the draft, and I cannot express opinions on that. This change will have historical importance. It has social and economic consequences on the amount of money injured workers will be receiving when the new schedule is in place.

I know we have some time, from now until July when the issue will be brought to the attention of the corporate board. I was wondering if there is any way to explore other consultative processes which could make a contribution to the development of the final draft, of course, based on the principles of complications, reading these guidelines.

I wonder if there is any way that the best experts in medicine in Ontario, the leading doctors and specialists operating here in Ontario or leading doctors in Canada could be appointed to work for a few days on the full revision of your draft so that you could get some input from them to come up with the best solution in relation to the principle of percentages.

Again, I am not talking with a medical mind. I am not a doctor. I am more interested in the economic wellbeing of the injured worker. I am sure the percentage of disability is something I will take a very close look at. I am sure the injured workers across the province will be the first ones to raise their concerns to find out if there is a great improvement in the system in relation to percentage of disabilities, or maybe we are leading to the status quo which is the present rating system.

Just to satisfy my mind--I know you are the experts and you are operating with the medical mind, which is extremely different from mine, if you could appoint a leading doctor and a specialist, I am sure you would get what you are looking for. Just to satisfy your thesis which has been clearly spelled out on the draft which you have--at this time, it is highly confidential. You are unable to give me a hint about changes which will take place to balance the improvement which will take place. I will be satisfied if you are going to have this type of approach, with the other specialists and so on. I am not sure it is worth it to implement a process which injured workers or other interested groups can make comments before the final draft will be presented before the corporate board, just to satisfy ourselves and the public that everybody--

(R1625 follows)

(Mr. Lupusella)

...before the final draft is presented before the corporate board, just to satisfy ourself and the public that everybody had an opportunity to review it and make comments. I know you are going to give relevance to comments coming from the medical association, but even the medical association here in Ontario can make its contribution to the final draft.

The reason I am expanding this type of concept is because we might live with the new system, which I hope will be an improvement from the present one, for a long time. I would not like to see a situation, to satisfy my own expectations for injured workers, and we have to raise criticism about the notorious meat chart again in years to come. I hope this consultative process will be in place just to satisfy everybody.

Can we get some commitment that this process will be followed or am I asking too much?

Hon. Mr. Alexander: I do not know if you are asking too much. I must say that we are talking about a medical issue here and I am not capable to give you that kind of commitment. I would think and know that Dr. Mitchell has not taken this matter on with respect to being an inhouse project. You have mentioned several states that have a particular schedule in place now. We have indicated to you that we have been to Chicago in order to talk to the American Medical Association there. They were having a big program on the schedule, if I recall correctly.

I do not know to what extent there is a role for a layman, with respect to devising a clinical schedule. I do not have the expertise on that.

Mr. Lupusella: Maybe Dr. Mitchell can reply to my recommendations, maybe they cannot be implemented or maybe they do not make sense. I would like to know his opinion about what I have said. It makes sense to me but I do not know if it makes sense to the medical profession.

Dr. Mitchell: I might give an example of one of the processes, we were asked by the Ombudsman to review our criteria for hearing loss impairment. In doing so, we have had our own internal department review it and make recommendations. When we reach agreement on that point, we will then ask, as you have suggested, specialists in the field to comment on the concept and detail of the actual recommendation. In this way, we do get the independent views of those other than their own group. We would reflect on what else happens in provinces such as Quebec, British Columbia or Alberta, and then we would look at other jurisdictions in the United States.

As far as philosophy is concerned, it would be important to have an input from injured workers groups. I felt that the new corporate board would have adequate representation to do that, when we made the recommendation to the board. But when it comes to the mechanics, the actual details, that is a professional judgement. A concept is one thing, mechanics is another.

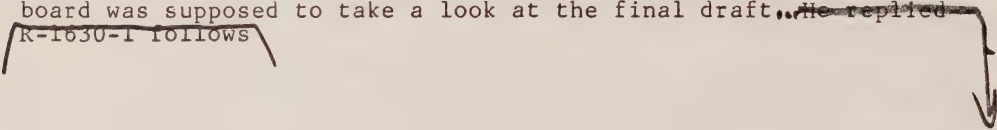
Mr. Lupusella: I am glad you mentioned the new corporate board. At least, I am satisfied, before the final draft is ratified by the corporate board, it will be the newly structured corporate board which will give the final blessing. I am satisfied there is an opportunity for the new people to give some input and eventually the new people can bring the message to the groups.

Hon. Mr. Alexander: Are you suggesting that any new schedule that would be in place for the future should be approved by the new corporate board? Is that what you are saying?

4:30 p.m.

Mr. Lupusella: Dr. Mitchell I think made the reference that the final draft would be presented to the restructured corporate board an a final analysis for final ratification. Unless I misunderstood the message, my subsequent question was, which board was supposed to take a look at the final draft. ~~He replied~~

R-1630-1 follows



(Mr. Lupusella)

~~Unless I misunderstood the message, it was my subsequent question which board was supposed to take a look at the final draft, and they replied without me asking the question, unless you have a different plan from what Dr. Mitchell has demonstrated.~~

Hon. Mr. Alexander: No. I must say that I was not paying that much attention at that particular time. That is why I asked you, because I thought it was your request, never mind the old corporate board looking at this schedule, but rather, let the new corporate board look at it, but now what you are telling me is that Dr. Mitchell had suggested that perhaps it should be looked at by the new corporate board. In other words, it should be ready by July 1 for consideration by the new corporate board.

Mr. Lupusella: The new corporate board, if I understand--and I will read Mr. Gillies's explanation--I hope that the new board will be in place before July. That is why I want clarification of the minister's intention because if you leave something aside it will cause problems to other levels of the board. I want the minister to put everything in order in relation to that because I think that the people should be appointed as soon as possible, so they can start working on issues which are pending, such as the clinical rating system, which as I stated before, is of prime importance for the injured workers of this province.

Mr. Laughren: Before we adjourn, would you allow one short question? We were wondering, when your chauffeur picks you up in Hamilton every morning and brings you to Toronto, does he also pick up John Smith?

Hon. Mr. Alexander: No. He has not asked us yet, but it would be a delight if he wanted to share the people's car, sir, one of which I have the use of. It is not mine.

Mr. Laughren: I understand that.

Hon. Mr. Alexander: I have taken Members of Parliament in the people's car, and I have taken several people I know from place to place. It is not mine, so I only have the use of it, and I like to share it.

Mr. Chairman: Now that we have that clarified, we shall adjourn until 9:30, as far as committee members are concerned, 9:30 on Tuesday morning.

Hon. Mr. Armstrong: I think I should clarify this. It is anticipated, I think, that I will be the only one there from the board, I mean other than Dr. Mitchell and Mr. Haugh. Is that satisfactory? Then you will have the staff out there, of course.

The committee adjourned at 4:32 p.m.

R-88
(Printed as R-52)

STANDING COMMITTEE ON RESOURCES DEVELOPMENT
ANNUAL REPORT, WORKERS' COMPENSATION BOARD, 1983
TUESDAY, FEBRUARY 12, 1985
Draft transcript



STANDING COMMITTEE ON RESOURCES DEVELOPMENT

CHAIRMAN: Barlow, W. W. (Cambridge PC)
VICE-CHAIRMAN: Villeneuve, N. (Stormont, Dundas and Glengarry PC)
Havrot, E. M. (Timiskaming PC)
Lane, J. G. (Algoma-Manitoulin PC)
Laughren, F. (Nickel Belt NDP)
Lupusella, A. (Dovercourt NDP)
McKessock, R. (Grey L)
McNeil, R. K. (Elgin PC)
Reed, J. A. (Halton-Burlington L)
Riddell, J. K. (Huron-Middlesex L)
Watson, A. N. (Chatham-Kent PC)
Yakabuski, P. J. (Renfrew South PC)

Substitutions:

Haggerty, R. (Erie L) for Mr. Reed
Kolyn, A. (Lakeshore PC) for Mr. Villeneuve
MacQuarrie, R. W. (Carleton East PC) for Mr. McNeil
McCaffrey, R. B. (Armourdale PC) for Mr. Havrot
Sloat, A. (Wentworth North PC) for Mr. Watson

Also taking part:

Mancini, R. (Essex South L)

Clerk: Arnott, D.

From the Workers' Compensation Board:

Alexander, Hon. L. M., Chairman
Cain, D., Associate Secretary
Darnbrough, A. J., Executive Director, Vocational Rehabilitation
Division
Haugh, G. A., Executive Director, Communications Division
McDonald, J. F., Executive Director, Claims Services Division
Reilly, R. D., Assistant General Manager, Executive Division

LEGISLATIVE ASSEMBLY OF ONTARIO
STANDING COMMITTEE ON RESOURCES DEVELOPMENT

Tuesday, February 12, 1985

The committee met at 2:15 p.m. in committee room 1.

ANNUAL REPORT, WORKERS' COMPENSATION BOARD, 1983
(continued)

Mr. Chairman: I see a quorum. We shall start our afternoon session. Unfortunately, things kind of fell apart on us this morning and I can only apologize to the committee for whoever mistake it was that the van did not show up to take us out to the board. We have made tentative arrangements or plans to go out there at nine o'clock in the morning.

Mr. Lupusella: Tomorrow?

Mr. Chairman: Tomorrow morning, yes.

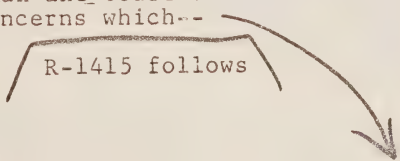
Mr. Lupusella: It is going to be worse than today.

Mr. Chairman: I was just leading up to that. We should be flexible enough that if the weather is just plain miserable--they are calling for 20 centimetres of snow overnight. Maybe it is 20 inches of snow, I do not know. It would be ridiculous for us to try to fight our way out to Downsview, I would think. However, I am in the hands of the committee on that.

If you want to come in at nine o'clock in the morning, as we decided this morning, ready to leave to go up there, that would give an hour's lead time for us to notify the board for their people to come down here from the board office on Bloor Street if we feel the weather is going to be too bad for us to travel tomorrow morning. May I have some consideration on that?

Mr. Lupusella: My first concern is that we lost half a day. I think the Chairman and board officials have to reply to a lot of questions and concerns which--

R-1415 follows



1 2
Mr. Lupusella: My first concern is we have lost half a day and I think the chairman and board officials have not replied to a lot of questions and concerns which have been raised.

I would not like to leave my friend Floyd without the opportunity to raise his concern which means if we are going there we have to utilize half a day, plus Floyd's presentation and all the replies which we expect from the board. I do not think it is fair for us to waste another half day. Just in addition to that, I know that several members would like to visit the rehabilitation hospital but we also have to consider the principle that we need the board's replies and there are members who wish to speak on other concerns affecting the operation of the annual report 1983. I hope there will be some accommodation in case tomorrow is another disaster like today.

Mr. McKessock: Mr. Chairman, I think we should proceed to go out at 9 o'clock in the morning. Surely the weather will be all right tomorrow. I think most of us would like to see the place so we would know a little bit more of what it is we talk. I think we should do that.

Mr. Chairman: Subject to weather.

Mr. McKessock: The bus will be here at 9 o'clock in the morning? Is that what we are counting on?

Mr. Chairman: This is what we are saying. The bus should be here at 9 o'clock in the morning or vans, whatever was arranged for.

Mr. Laughren: I would go along with going out there tomorrow if I thought if the weather was bad at least we have the committee here. This morning as it turned out we could nothing about it, but my only request would be if the weather is too bad to go out there that we organize things in such a way that we can still meet tomorrow at 10:00 so that both are not written off for two days.

Mr. Chairman: This was the point I was trying to make. If we are going to meet here at 9 o'clock, which we say we are, if the weather is bad we can call the board office and have the officials come down for 10 o'clock.

Mr. Laughren: Okay.

Mr. Chairman: We would do one of two things. Either we will travel out to Downsview or we will meet at 10 o'clock as we normally do.

Mr. Riddell: Are we limited to the number of days that we can sit on this committee to consider the Workers' Compensation Board? If necessary could we meet on Thursday if we decided to go to the rehab centre tomorrow?

Mr. Chairman: No, I do not think we can. We are limited to five days. This afternoon is considered a full day. We could not meet on Thursday. It would not prohibit us from going at any

(Mr. Chairman)

other time, either as a committee or as individuals to Downsview. It could be when the House comes back.

Mr. McDonald: The only concern I have is that you would be at Downsview, Mr. Darnbrough will be at Downsview and Dr. Mitchell will be at Downsview. If the weather is so bad they cannot get out there, your timing in getting here--

Hon. Mr. Alexander: I think I will wait around for awhile. Even have my contact man Mr. Gord Haugh. If you could call Gord Haugh, you can reach all of us at the board. Your number ??Lloyd is?

Mr. Haugh: I will be here as I was this morning. I will contact the people at the board depending on the decision. I would suggest sir, you come downtown in any even in the morning--

Mr. Chairman: Would you like to go up to the mike please.

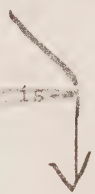
Mr. Haugh: If we are indeed going out to the centre in the morning that those officials from the board who are going to the centre would travel along in the vans as well. There are only two or three of us involved and those arrangements could be made at that time when the decision was taken.

Mr. Riddell: It still raises the question of whether we can complete our work before this committee. I understand that Mr. Laughren still wants to express some concerns I think on rehabilitation. The chairman of the board would have to make responses to several concerns that have already been expressed. Are we going to be able to accomplish all of that in a half a day if we do go to the rehab centre tomorrow?

Mr. Chairman: We have this afternoon and tomorrow afternoon as well. It is up to the committee.

2:20 p.m.

~~Mr. Lusella: My proposal Mr. Chairman is--~~
~~R-1420-1 follows~~



~~Mr. Chairman: This afternoon and tomorrow afternoon too,
one day. It is up to the committee.~~

Mr. Lupusella: Mr. Chairman, my proposal is if this committee would go to the rehabilitation hospital tomorrow, that we should set aside more time. I do not think another full day but I do not know how long Floyd is going to be on his own presentation. As a committee, we should be flexible to set aside half a day to complete our work.

Mr. Laughren: Would it make it easier if we agreed to hold the meetings here tomorrow and put off the visit to Downsview until the House comes back? It leaves the uncertainty out of tomorrow and we could still get out there. We are not travelling as a committee anyway, we are travelling as individual members.

Mr. Chairman: We are not travelling as a committee, you are right.

Mr. Laughren: Remo put the motion to go out there and he is not here now so I hate to pull the rug on him but--

Mr. McKessock: He is planning to go out in the morning. That was our last decision and we dispensed this morning.

Mr. Chairman: Is he around these buildings or--

Mr. McKessock: Yes.

Mr. Chairman: It seems to make sense, because of the uncertainty to perhaps leave the trip out there until the House comes back but it has to be a committee decision. It matters not to me.

Mr. Lupusella: Is there any way we can get ahold of Mr. Mancini so at least we can settle this issue?

Mr. Chairman: If some of his colleagues would like to try to make contact with him? We are going to check to see if he is in procedural affairs. Can we go on with business until we get a word back from Mr. Mancini? Are you finished, Mr. Lupusella?

Mr. Lupusella: I was speaking to Dr. Mitchell but I have a lot of material to talk about but as I stated before, I want my friend, Floyd to make his own presentation and reserve some time later on, if there is any time left over. Considering that the board has to respond to all the issues that I raised, I would leave the floor to Mr. Laughren.

Mr. Chairman: If that is all right with committee members, Mr. Laughren can proceed with his presentation. Hopefully it will be a little shorter than Mr. Mancini or we will not have time to answer these questions.

Mr. Laughren: Mr. Mancini's?

Mr. Chairman: Mr. Lupusella's.

Mr. Laughren: Yes, I wanted to do two things: One, I obviously have some remarks of my own but second, I wanted to read into the record the brief that the Association of Injured Workers would have presented to the committee had the committee voted in favour of allowing them to present their own brief. I shall commence with that task.

"Year after year the standing committee on resources development needs to review the report of the Workers' Compensation Board. Year after year the same problems are discussed and painfully slow progress seems to be made. In 1985 we are at a particularly crucial time because major changes to the act will be implemented pursuant to Bill 101, a piece of legislation that the standing committee had a very major role in shaping.

"On April 1, we will see changes to the benefits system; on July 1, changes in administration and appeals. Surely it is time to take decisive action to solve world problems and avoid them in the future. This brief by the AIWG is not meant as a comprehensive analysis of the problem. They mean only to highlight key problem areas. Most, if not all of which, the members of the committee are well aware of.

"Our message is that mismanagement or apathy at the highest levels of the board has created a crisis at Ontario's workers' compensation system. It is a crisis that involves, among other problems the following: denial of pension supplements to injured workers who are actively seeking work, in particular workers in receipt of Canada pension plan disability benefits; a theory by the board's vocational rehab division to properly retrain workers or to find them suitable jobs; board doctors overruling the opinions of the injured workers' treating physicians; lengthy delays in scheduling appeals and issuing decisions; a failure to build up adequate assets to fund future payments to existent injured workers; the unfunded liability problem.

"The AIWG urges the standing committee to recommend that in making appointments to the new administrative structure by Bill 101, the Ontario cabinet clean house at the top levels of the board.

R1425 follows



...workers, the unfunded liability problem. The Association of Injured Workers Groups urges the standing committee to recommend that in making appointments to the new administrative structure set up by Bill 101, the Ontario cabinet clean house at the top levels of the board.

The AIWG also urges the committee to recommend to the Workers' Compensation Board that all injured workers receive the full advantage of the improved benefits provided by Bill 101. Although the AIWG is concentrating its attention at this time on the WCB's administration of the act, it is clear that amendments to the act itself are also necessary to provide full justice to injured workers. The AIWG will be continuing its campaign for a much improved permanent pension system with automatic indexation for inflation and against government efforts to abolish pensions. That is the introduction of the brief by the Association of Injured Workers Groups. We will now proceed with the body of the brief.

Mr. Chairman: Excuse me, Mr. Laughren, before proceeding, it is a very lengthy brief. I wonder if the committee wishes to have the total brief read into the record. It will detract a considerable amount of time from our deliberations. It is up to the committee. I am not going to rule it out, but if the committee to hear it read into the record.

Mr. Lupusella: I do not want to speak on my friend's behalf, but either he will read the brief or he will elaborate on the content of the brief. I do not think it will make any difference.

Mr. Chairman: He is apt to do both, is he not?

Mr. Laughren: This is probably the most efficient way of doing it.

Mr. Chairman: Before you proceed with that, Mr. Laughren, we have Mr. Mancini before us now. It was your request, Mr. Mancini, that we decided to make our successful trip to hospital this morning--a suggestion that rather than interfere with the balance of the deliberations of this committee that we wait until the House comes back and then set a day aside and go to the hospital as a committee.

Mr. Mancini: At the time I made my motion, I felt very strongly--I feel the same now--I have discussed this further with my colleagues in the Liberal caucus and they are anxious that the committee go to the hospital and do what we were supposed to do today. I hope the committee feels the same today as they did last week, that there is a need for us to visit the facilities and see some of the systems used and maybe talk to a patient or two to find out their feelings firsthand. I ask the committee to continue to support the motion they supported last week. What happened this morning was unfortunate, but we cannot debate that forever. I ask that we go tomorrow morning, as was discussed earlier today.

Mr. Chairman: The only concern the committee had, Mr. Mancini, is the uncertainty of the weather. Apparently the predictions are for about 20 centimeters of snow overnight.

Mr. McKessock: If that happens, the committee will still continue in the morning.

Mr. Chairman: Right.

Mr. McKessock: There is nothing to lose.

Mr. Mancini: Our basic plan was to leave at 9:30 this morning, and possibly--it was discussed that maybe we should leave at nine tomorrow morning. Maybe we could put it back to 9:30. All of us will be in our offices well before 9:30. If there are traffic or weather problems, we will all be within easy reach of the clerk and some of your staff, Mr. Chairman, and we can make the decision to cancel the trip as a last-minute decision. I would like to have it arranged for us to go if possible.

Mr. Chairman: Our problem there is that if we leave it that late, we will have no board officials here to continue our meeting, if we do not go out there. We would have to leave it at nine o'clock. We have two choices; one, put it off until the House comes back, or two--

Interjection.

Mr. Chairman: The second alternative would be to meet here at nine o'clock and determine then whether we will go or not. That would be the only thing that could come up. We can decide to meet here at nine o'clock and we will have the vans here. Then we will decide whether it is worth spending an hour and a half travelling each way.

2:30 p.m.

Mr. Riddell: We should go, if we possibly can, in order to get a better appreciation of all the concerns I am hearing expressed about the rehabilitation centre. I would like to go and see it firsthand. In my riding, I get very few complaints about how badly people are abused at the rehab centre, and yet I--

(R1430 follows)



(Mr. Riddell)

see it first hand. I must say that in my own riding I get very few complaints about how badly people are abused out at the rehabilitation centre and yet I listen to all these concerns in here and I want to go out to see if I cannot find out whether, indeed, people are as badly treated as they are out there.

It would be far more useful to me than to have, say, Mr. Laughren read into the record something that we already have and have read.

Mr. Lane: I think we can get a consensus that we go tomorrow morning at nine o'clock, assuming that weather conditions and road conditions are fit for us to go. Otherwise, we start at 10 o'clock here. I, for one, if necessary, could sit till five o'clock tomorrow afternoon if we are short of time. I hope that would not happen, but if we are short of time I would not be concerned about running a little bit over time.

Mr. Chairman: Are there any problems with that?

Mr. Laughren: That we go out there, you mean?

Mr. Chairman: Go out there in the morning, weather permitting.

Mr. Laughren: I will not read this entire brief into the record. I perhaps will read only the section on rehabilitation, which is not a particularly long section. That will make it a little easier.

Mr. Chairman: Is it agreed then that we meet here at nine o'clock in the morning and, weather permitting, we will go out?

Interjection.

Mr. Chairman: No, at the front door again. Weather permitting, we will travel out to Downsview; weather not permitting, we will reconvene in here at 10 o'clock in the morning.

Mr. Laughren: Okay.

Mr. Chairman: Agreed? Agreed. That decision cut out some of Mr. Laughren's reading.

Mr. Laughren: Yes. I would like to read the section on rehabilitation because it is a part of the board that concerns me a great deal.

Mr. Chairman: What page?

Mr. Laughren: It is actually part C. It is numbered separately, about two thirds of the way through.

"For the partially disabled injured worker who cannot return to his or her preaccident employment, effective rehabilitation is

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usually the determining factor in whether the worker will play a productive role in society or be relegated to low income jobs. With few exceptions, the board continues to refuse to provide effective rehabilitation.

"The almost invariable approach of the board is to try to fit the worker into the job market with the skills and socioeconomic situation which the worker has. Given that the majority of those with a permanent partial disability cannot return to their preaccident employment or similar work also generally were normal labourers, often with limited language and educational skills, the board's approach produces inevitable results. Workers in this situation have very little change of obtaining work on their own, given the active discrimination by employers against hiring the disabled and especially injured workers.

"The jobs which the board locates are low paying and low status jobs and are very often physically unsuitable for injured workers. Workers very often just give up on the idea of ever returning to gainful and meaningful employment. The board then closes the file and the worker is relegated to welfare rolls or Canada pension plan.

"These problems are compounded by the fact that there is an enormous pressure on the counsellors by management to close files. This leads to a reluctance to open them in the first place. Then counsellors try to return workers to any sort of work. If the particular job is not suitable, the system does not care and, in fact, it may be good; a file has been closed and the job position can be filled by another worker, adding to the statistics.

"The pressure to close files and to save rehabilitation funds also leads to a great reluctance to provide effective vocational training to workers. However, in many cases, this is the only way to avoid the normal tragic results. If the board were to concentrate more on providing the worker, through training or educational upgrading, with marketable skills and less on the hopeless task of trying to fit the worker into the job market as he or she is, the net result would be much better for the workers and better for the WCB.

"The board would, in many instances, save money because they would not have to pay wage loss payments because people would be engaged in higher paying jobs with less chance of further injury. While obviously many injured workers are not suitable for further training, it is also obvious that many are and that they are unlikely to be able to return to suitable work without such training.

"The system requires these people, however, to conduct a fruitless and demoralizing search for light work for a minimum of six weeks before training is even considered. Then rehabilitation counsellors seem to have very little idea of what courses are available. Calendars from the various community colleges are not even available at the board. Rather, the injured worker is

(Mr. Laughren)

supposed to go out and find a suitable course on his or her own. The worker is also required to prove that the course will lead to successful employment. Rather than giving encouragement about this sort of pursuit, the counsellor often gives the warning that his or her supervisor will likely not approve the course.

"In short, what is required is a new--

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(Mr. Laughren)

...also required to prove that the course will lead to successful employment. Rather than giving encouragement about this sort of pursuit, the counsellor often gives the warning that his or her supervisor will likely not approve the course.

In short, what is required is a new approach to rehabilitation. Counsellors must be allowed to and trained to counsel injured workers, not to the benefit control officers. There should also be a willingness to consider active retraining at a much earlier stage before the worker becomes completely discouraged for nonexistent light work. The board should also be working with community colleges and similar institutions to develop courses for injured workers.

To turn to the 1983 annual report, the board has, as usual, provided very limited and misleading information about rehabilitation. On page 11 we learn that "service was completed in the field in 7, 722 cases", which means that the board closed 7,722 cases. On page 17, we are informed that the board "rehabilitated" 3,981 workers. What happened to the 3,741 people, the difference between those two numbers, who had their cases closed but who were not rehabilitated?

Even the figure of 3,981 rehabilitated workers is very misleading since this is not explained. We do know that this includes 793 people who obtained "financial self sufficiency." This means that these people ended up on Canada pension or welfare. To claim this as successful rehabilitation is nothing less than amazing.

Of the 3,188 people who were returned to work, there is no breakdown of how many the division actually had anything to do with as opposed to the number who found work on their own. The most important statistic in this regard is completely absent, namely, how many of these people were still working after a few months. The board apparently does no follow-up to determine this very important question. If a worker only lasts a month or two at a job, the end result can hardly be claimed as successful rehabilitation.

Page 17 of the annual report claims that there were 3,302 assessments and 2,400 training programs. However, there is of course, no breakdown of these figures, which include training on the job programs. It would be interesting to know how many of these were actual formal educational programs as opposed to the TOJ which is essentially an incentive to employers to hire injured workers.

The rehabilitation budget of the board is fairly high. However, if it is not leading to rehabilitation of injured workers, then something is seriously wrong. We are not convinced that the current administration is capable of developing this sort of new, imaginative measures which must be developed in this crucial area and have, in the past, called for a commission of

(Mr. Laughren)

inquiry into vocational rehabilitation. If the government is prepared to clean house at the board and listen seriously to injured workers, perhaps steps can be taken to remedy the current tragic state of rehabilitation at the WCB. In the meantime, injured workers are not receiving the effective rehabilitation which they require and deserve.

That is the end of the Association of Injured Workers' Groups presentation on rehabilitation. Many of those comments were ones that I was thinking of making as well because I run into a lot of problems with rehabilitation representing a constituency which consists of a lot of mines and forestry operations, and many of the people who work in the lumber camps, in the bush, in the saw mills or in the mines do not have high language skills, they do not have a lot of education.

Rehab is more difficult because of that. Certainly, a much more challenging job is rehabilitating these people. So what! That is what the board is there for, and that is what employers are paying for. The workers have every right. I do not think it is a privilege and, yet, that is the way some workers come to me and made to feel that it is a privilege that they are receiving academic upgrading so they can be put on the rehab program. That should not be the case.

2:40 p.m.

Every time I think of rehabilitation I think of my constituent from Chapleau, a unilingual forestry worker who, if I recall correctly, is 58 years old. He was told by the board that he was not co-operating with rehab, if I recall correctly, because he would not relocate. I do not know what you wanted this man to do. But that is the kind of approach that makes us very angry at the board.

If I could turn--

(Tape R-1440 follows)

(Mr. Laughren)

~~That is the kind of approach that makes us very angry at the board.~~

~~if I could turn~~ to a report by the board: It is a WCB report, Summer of '82. I do not know how I kept this so long, but I did. It states in that report: "WCB Facts" is the heading. The subheading is: "Rehabilitation for Injured Workers." This is the opening paragraph:

"Providing injured workers of the province with medical service and compensation payments, the Workers' Compensation Board's job is not complete until those workers return to employment and a place in the community. Workers who are eligible for this assistance have an established claim with the board, and a disability which prevents them from returning to their former job," etc.

That is a nice statement to make, and it would be hard to disagree with. But we sure run into a lot of trouble despite that kind of statement, but I am not impressed with the way in which the rehab department operates.

I am also confused about the relationship of the length between pensions and rehabilitation. If the injured worker is co-operating with rehab why is there not an automatic supplement? How can a worker be eligible for rehabilitation but there is no monetary supplement? I do not understand that. I do not know what thinking is prevalent at the board to say that this worker is eligible for rehabilitation but is not eligible for the supplement. Why is it not automatic? I do not know how the pensions department interacts with the board. I am always puzzled by that because one minute the worker is getting a partial disability pension, plus a supplement, and the next minute it is terminated. I do not know who terminates it. Is it the rehab department? Is it the pension department? Is it the benefits? Who does that?

Mr. Haggerty: It has to be the computer.

Mr. Laughren: No, it is not the computer. It is a letter from somebody who states that it is being terminated with an adequate notice as well. Then, of course, if the worker can appeal, you and I know how long an appeal takes. We have been through that. That does not put bread on the table while an appeal is going on.

I am mixing up some of these departments at the board, I guess, in my remarks because I do not know how else to do it. For example, I do not know how somebody can go from a partial disability, plus a supplement, to a pension and have a dramatic drop in income. Why would that be? Why would not the basis of the pension and the supplement be based--I am sorry, I mixed that up.

A worker is on total temporary benefits. The board says:

(Mr. Laughren)

"You have been on total temporary too long, it is time to put you on a pension plus a supplement." When they move from the total temporary to the pension plus the supplement there is a dramatic drop in income. There can be. I have just finished an appeal. I appeared before an adjudicator in Sudbury on one like this. The reason was that when it figured out the pension and the supplement it went further back than it had for the total temporary benefits.

How is that fair? I do not understand that. That is beyond my comprehension as to how the board would see any sense of fairness in that. Surely, it is the same principle that you are supplementing the pension because the degree of disability is greater than that warranted by the degree of disability. Is that right? That is the philosophy behind it, as I understand it. Yet that is what the board does.

The other thing is more pensions than rehab. Why does the board not move to decentralize the pensions department to the regional office? That is causing us problems. It is causing the injured workers problems. It must be causing the board headaches as well.

The other thing I wanted to mention briefly was the whole question of commutations. I will to be restrained, but I really do find the commutation decisions by the board arbitrary--

(Tape R-1445 follows)



(Mr. Laughren)

the whole question of commutations. I will try to be restrained but I do find the commutation decisions by the board arbitrary, patronizing and demeaning. They make workers feel as though they are completely at the mercy of the board--and they are, I suppose. Then they go through--and this is where I got angry the other day in these hearings when I said that the delays were deliberate, and the chairman did not like it. But--

Hon. Mr. Alexander: I said I did not agree with you.

Mr. Laughren: Yes. Fine.

Hon. Mr. Alexander: What I like does not really matter.

Mr. Laughren: It would be helpful if you liked some of these more progressive measures.

Hon. Mr. Alexander: I always like progressive measures. There is no question about that.

Mr. Laughren: I could give you an example. There was a worker who wanted to commute part of his pension because he could become self-reliant. There was an opportunity for him to buy a backhoe--a fairly big one of the type used in construction. He told that to the board in May 1984. I attended the appeal in January 1985. But the board just blithely assumed that backhoe would still be available, I suppose, and this person could still be self-reliant--I do not know what their thinking was. However you cannot tell me there is any justification in waiting from May, when the case was put for the commutation, until January when the appeal was heard. That is total nonsense.

There is another case--I would not want you to think I was just picking one out of the air--where a worker's car was going down the tube. It was in very bad condition. This worker was taking a rehabilitation course at Cambrian College. The worker lived in a community known as Whitefish about 20 or 25 miles from Cambrian College. He wanted a partial commutation so he could buy another car. The board did not want to do it, and asked him to submit an estimate for a new car, not a used car. That blew my mind. He submitted the estimate and we had to go to an appeal. The appeal was heard and no decision has yet been rendered.

But that was back in the fall, as well. Here we are in February and the board--this is the part that really got to me--is threatening to cut off his course at Cambrian because he is missing so much time. He is missing time because the board would not give him partial commutation to buy a car so he could drive to Cambrian College, and there is no public transit there.

There is a word for that, is there not? It is like a self-fulfilling prophecy: if you do not attend these classes we are going to cut you off, and we will make sure you do not have partial commutation so you can get to classes. This person is serious about his upgrading but by the time the board gets around to making a decision he may be kicked out of the course. I do not know if the board would go along with his request for commutation or not--it is in the hands of the adjudicator. But if the person is kicked out, I really find that bizarre.

There was another case where a person by the name of Mr. Daniel, who had a small pension, was refused commutation because there was another disability to be assessed for a pension. That is a never-never world--turning down commutations because he might have another pension which would boost him over the 10 per cent, presumably. I find that really hard to take.

I wish to speak briefly to another area which bothers me --the whole question of the regional medical adviser in Sudbury. There are now two medical advisers in Sudbury, as I understand it. We find cases where the regional medical adviser reads the file and makes a ruling. He does not examine the injured worker. I could give you the name of an injured worker if it would be helpful. Therefore it results in a disputed ruling because the medical adviser can overrule the family physician. I do not understand why you would do that. If you do do it, why would you not allow that worker to continue to receive payment until the dispute was resolved? That is another thing that is bothering us.

2:50 p.m.

There is another issue the medical department should be looking after--something they are doing a terrible job on. It is something called white finger syndrome. I raised this before in this committee. Workers are being told that--

R-1450 follows

(Mr. Laughren)

that the medical department should be looking after--they are doing a terrible job on it--something called white finger syndrome. I raised this before in this committee. Workers are being told what they are suffering from is not white finger disease but carpal tunnel syndrome. They perform surgery for the carpal tunnel and then there is no follow-up to see if that has resolved the white finger problem.

I have a situation right now where a fellow came to me. He worked for years on drilling and has white finger disease.

Reynaud's syndrome, I believe, is the correct term for it. He approached the board and the board said, "Your problem is that it is five years since you worked on vibrating equipment." I believe five years is the criteria for--

Hon. Mr. Alexander: I am not sure.

Mr. Laughren: I think that is what it is. There is no other conceivable reason why this person would have white finger disease except that he worked for many years drilling with the old drills which were very hard on circulation. When he left, his fingers were bothering him a little, but not to the extent--

Miners tend to be rather hardy types and they do not complain about what they consider to be minor problems. Now, his hands are bothering him more and more. He goes to the board and says, "I must have what they call white fingers." The board does not deny that he has this; the doctors do not deny he has it, but they say, "You do not fit the criteria." That is incredibly arbitrary. I do not know how you do that.

If I had my way, the board would have to show how this person obtained this white hands problem and not the other way around. Whomever said there was benefit of a doubt at the Ontario Workers' Compensation Board? The onus is completely on the worker. I do not know where else this person could have obtained this.

Mr. Haggerty: Driving a car.

Mr. Laughren: Ah, driving a car. I have never heard that excuse. But that is an obvious example. This person has worked on vibrating equipment for years and the board gave him the back of the hand.

The other thing is the whole question of--and I will not dwell on this, but so help me, when I look at Bill 101, and I know that the 1983 report had difficulty anticipating Bill 101. However, if you look at section 43(1)(a) on page 13 of the bill, where you are determining the average earnings of a worker--when you are trying to figure out how much to compensate that worker, it reads:

"The board shall calculate the daily or hourly rate of the worker's earnings...at the time of the accident as is best calculated to give the rate per week."

Further down at section 43(2), it says:

"Where owing to the shortness of the time during which the worker was in the employment of the employer of the casual nature

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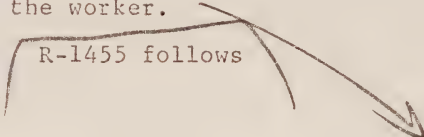
of the employment or where it is impractical to calculate the average earnings at the time of the accident, regard may be had to the average earnings that during the 12 months prior to the accident was being earned by a person in the same grade employed at the same work by the same employer."

If you use that section, you can go back and see if a worker did not work the full 12 months. The board can go back and use that section to give the worker a very low average weekly rate. Whereas if you use section 43(1)(a), you can use any length of time you want.

I have an example of a worker who was working on construction and was injured. The board computed his earnings as though he only worked a little bit during the year, rather than saying that when he was working, he was earning a certain level of income. In other words, they used what I would call a mean-spirited approach in computing that worker's income.

They used the one section of the bill that would reduce the earnings to which that worker would be entitled. They could have used the other one under the act--I think you would agree. People from the board would admit you can work it out in different ways, depending on whether you use section 43(1)(a) or section 43(2). You come up with a totally different figure. I thought it was mean in spirit to do this to the worker.

R-1455 follows



is
(Mr. Laughren)

You could work it out different ways, whether you use 43(1)(a) or whether you use 43(2) and come up with a totally different figure. I thought it was mean in spirit to do this to the worker. That was one thing that was bothering me.

The other one is on page 32 and 33 of the bill, subsection 136(5), where they are talking about where the impairment of earning capacity of the worker is significantly greater than is usual for the nature and degree of injury, the board may supplement the amount awarded for permanent partial disability.

We tried during the debate on the bill to change that word "may" to "must," as I recall. It seems to me that if the impairment of earnings is greater than the degree of disability, why should there not be an obligation to pay that worker more? Why is it discretionary? That is beyond my comprehension.

I know that in the Legislature when we were debating, the board could not respond because they did not have a seat there. The Minister of Labour (Mr. Ramsay) just hardlined it and would not change it.

Interjection.

Mr. Laughren: "Preferential treatment for political purposes," my colleague says. I do not understand why something such as that would be an issue over which the board would just hardline their views. The Minister of Labour checked with officials of the board who were sitting under the gallery on these issues. He was continually checking with them, which is fine. I am not quarrelling with that. There was no question that the board wanted that left the way it is. They wanted it left in a discretionary way so they could play god with the level of benefits for workers. That is really offensive.

If the impairment is greater than the degree of injury, for heaven's sake, pay the injured worker. You should not have that discretion. You should not have that right. Your employer does not take your income up and down as he or she sees fit. That should be a requirement. The way it is in the act now, you can continue to do as you are doing, but I would hope there would be a change in attitude to the board.

I do not know how you do it at the board. Do you pass the word down? Does the chairman send out a memo saying, "Look, on this policy, give the worker the benefit of the doubt?" I do not know how he does that. I really wish that the board would take that more seriously.

The other thing is--and I have got to get this out of my system one final time--on page 13, 43(3).

Mr. Chairman: These points really are covering the annual report, are they?

Mr. Laughren: No, they are not.

Mr. Chairman: Okay, that is fine. I guess you did admit that, did you not?

Mr. Laughren: I admitted that and I will be very brief on this. I know it is in the bill and the board cannot do anything about it now, I guess, but I am telling you, that 43(3) is a section that really drives me around the corner. I do not know when I have seen this government and this board undermine the free enterprise system as dramatically as it does with this section.

What you are saying is that if a worker has two jobs, one is paying \$10 an hour and the other is a part-time job paying \$3 an hour, if the worker gets hurt on the \$3-an-hour job and it prevents him or her from doing the \$10-an-hour job as well, that they will only get paid compensation at the \$3-an-hour rate. That is what you are saying.

I find that incredible. If they get hurt at the \$10-an-hour job, of course, they get compensated at that rate.

3 p.m.

Do you not see that it is the fact that the worker's earnings are being impaired by the injury and the injured worker's earnings are \$10 and \$3 per hour? Even if you wanted to dig in and say, "We are not going to let you add the two together," although I think you should because it is to replace income as the result of an injury. That is the purpose of workers' compensation. I think every argument could be made that the two should be added together. Even if you wanted to say--

R-1500 follows



(Mr. Laughren) every argument could be made that the two should be added together. Even if you wanted to say that you would base compensation on the higher of the earnings that the worker was losing, all right, there is an element there that I could see that you did not want to top it up. I do not agree with it, but that you would insist on the lower rate of pay if that is where the worker got injured, I find truly offensive.

People go out and, because they are committed to the work ethic--and the board obviously is not, because of your views on rehabilitation as well as this section, I might add. You are obviously not committed to the work ethic because if the worker gets injured at the lower rate of pay, that is what they get even though they are losing the higher rate of pay as well. Talk about double jeopardy.

That section really bothered me during the debate on the bill as well. I guess you cannot change it now. It is in the bill. We can try to change it in the form of amendments as time goes on, but it should not be necessary. There was an opportunity to have that corrected when Bill 101 was being debated and between the board and the Minister of Labour that was the decision that was made.

I normally put a lot of blame on the Ministry of Labour because I have always felt that is where the political responsibility lies. Therefore, the board just does what the legislation allows them to do. I was pleased that I was party to--a witness to, not "party" to--how the system works, too, where the minister consults the board on every change. The board was party to these offensive sections of the bill and is just as culpable as the Minister of Labour.

Mr. Lupusella: It is a cop out.

Mr. Laughren: A cop out, yes.

Hon. Mr. Alexander: I do not want to interrupt, but--

Mr. Laughren: It is all right. Go ahead.

Hon. Mr. Alexander: Are not the last three lines of subsection 43(3) the governing lines? "...had been employed solely in the employment of the employer for whom the worker was working at the time of the accident." Could that be either/or? It could be the last place of employment would have a higher rate. On the other hand, it could have a lower rate.

Mr. Laughren: Right.

Hon. Mr. Alexander: But it does not mention rates. It says, "The last place of employment." Perhaps I have missed something here.

Mr. Laughren: No, I think you are right on. If the last place of employment is--

Hon. Mr. Alexander: High.

Mr. Laughren: --high, he gets the higher rate.

Hon. Mr. Alexander: If it is low--

Mr. Laughren: He gets the lower rate.

Hon. Mr. Alexander: That is what the legislation states.

Mr. Laughren: Exactly. That is what I find offensive, that the worker could be earning \$3 an hour pumping gas to supplement his or her income and only gets \$3 an hour but loses the \$10 or \$20-an-hour job on construction or in the mines.

For example, if a construction worker perhaps does not work year round and in the off season is pumping gas to supplement the income and gets hurt on that, that is what they get. A better example would be if they are working on construction during the day and pumping gas at night because they know that in three months they are going to be laid off for four or five months, then they get hurt by that section. Do you follow me?

Hon. Mr. Alexander: Yes.

Mr. Laughren: That is what I find bothersome about this section. I do not think you have any choice.

Hon. Mr. Alexander: I do not want debate that issue. That is in the act. Obviously, I guess it had a full and thorough airing--

Mr. Laughren: It did.

Hon. Mr. Alexander: --during the time that the committee was looking at Bill 101. I guess the wisdom of the committee members and the wisdom of the House--

Mr. Laughren: No.

Hon. Mr. Alexander: All I know is that this act was passed on December 14 after a considerable amount of deliberation. I am not trying to beg the issue. I can understand your problem and I can understand the issue which you are bringing to my attention, but I look at it and, as you said, the board does not have any choice.

Mr. Laughren: The board has no choice, that is right. They made sure they did not have any choice by--

Hon. Mr. Alexander: I would not say that. I do not think you have any information to come forth with a statement like that.

Mr. Lupusella: It was an implicit cop out. That is what the board is trying to say.

Mr. Laughren: It certainly was.

Hon. Mr. Alexander: All I know is that certain people who are members of Parliament passed an act. As you know, we try our best to administer an act. If the act is faulty--and, obviously, it can be called faulty in a number of instances. You have picked one out, but I guess it was the wisdom of the House that this stands as it does. I cannot comment on that.

Mr. Haggerty: The majority of the House. There were objections to it.



R-1505 follows

~~(Hon. Mr. Alexander)~~

~~...but I guess it was the wisdom of the House that this stands as it does. I cannot comment on that.~~

~~Mr. Haggerty: The majority of the House. There were objections to it.~~

Mr. Lupusella: With respect, Mr. Chairman, if you consider the old act, I do not think there is a change. The minister actually decided to keep the status quo with the principle of these particular sections.

If you analyse a section of the old act and consider that an injured worker with a pension who has been rehabilitated after the training process is over and the board or new employer is going to give him a job at a lower rate and so on, and he is going to get injured, that is the rate which the board is going to consider. This particular section is an extension of what is in the old act. The Minister of Labour preferred to keep the status quo instead of changing the whole process about rates and payments on behalf of injured workers.

Mr. Laughren: The chairman is saying: "It is your problem in the Legislature."

Hon. Mr. Alexander: No, I would not say that. I am concerned about the issue which is brought to my attention but all I say, Mr. Chairman, to you, Mr. Laughren, is that my hands are tied.

Mr. Laughren: Right. I just had to start out by saying--

Hon. Mr. Alexander: As long as you understand our position, sir, this is what I am trying to say.

Mr. Laughren: I do; and I understood your position at the time the minister was consulting you on this section too.

Mr. McKessock: Just a clarification here--

Mr. Chairman: No, Mr. Haggerty first--

Mr. Haggerty: I just wanted to get in a supplementary question on the matter raised by the member for Nickel Belt (Mr. Laughren) in regard to subsection 136(5). I wanted to come back to that.

Mr. Chairman: Mr. McKessock wants to start on this point and then we will get to Mr. Haggerty.

Mr. McKessock: Some clarification on this one here. We are saying that if an employee were working for two different employers at the same time or within the same day and he had an accident with one, would he get compensation with respect to the wages of the employers he was working with at the time of the accident? That is what the discussion is on.

Hon. Mr. Alexander: Two concurrent employments--one making three dollars and one making five dollars. He is injured on one of them and the act says that the rate you should use is the rate he was getting at the time of the last employment.

Mr. McKessock: At the time of the accident?

Hon. Mr. Alexander: Yes, at the time of the accident.

Mr. McKessock: I just wanted to point out that that is probably the way to be fair to the employer because the employer does not want to be charged with an accident that did not occur at his shop. ??So it would not be fair to the business or employer to be charged with an accident that did not occur at his place.

Hon. Mr. Alexander: I did not want to interrupt Mr. Laughren's submission but I wanted to bring some attention to the last three lines of the section.

Mr. McDonald has a lot more expertise than I have with respect to the application of this particular section. The question was asked Mr. McDonald--it is the employer who would not want to see the higher rate used. I am still confused because at the time of the accident it could be either or. Maybe you could pose your question again to Mr. McDonald.

Mr. McDonald: I understand the question.

Mr. McKessock: If it was the higher rate, there is no problem. There is nobody to argue.

Mr. McDonald: If the man is employed on a part-time job earning three dollars an hour, as Mr. Laughren suggested, and he had a concurrent employment where is working full-time. What we would do is calculate what he would earn if he were working full-time on that part-time job.

That is what the act says he will do. In other words, if he were a 40-hour workers, at three dollars an hour, \$120 a week. That is the rate you would use. That is what would be assessed against the employer. If you take Mr. Laughren's suggestion that you pay him at the higher rate, then that is the rate that would be assessed against that employer. Yes, you could get some objections from the employer because of that.

3:10 p.m.


Mr. Laughren: But the real question is whether or not you are replacing the worker's income or protecting the employer's assessment.

Mr. McKessock: That is right. But of course, it is a two-way program here--employer and employee.

Mr. Laughren: What is fair?

Mr. McKessock: What is fair to both

R1510 follows



(Mr. Laughren)

...whether or not you are replacing the worker's income or protecting the employer's assessment. That is really what it comes down to.

Mr. McKessock: That is right, but, of course, there is a two-way program here, the employer and the employee.

Mr. Laughren: What is fair.

Mr. McKessock: You have got to be fair to both.

Mr. Laughren: To whom is the present system fair? It is not fair to both.

Mr. Chairman: (Inaudible)

Mr. Laughren: I said it is not fair to both of them.

Mr. Riddell: Mine was much along the same line as that of the member for Grey (Mr. McKessock). Whose record does that black mark go against?

Mr. McDonald: It goes against the employer where the action occurred.

Mr. Riddell: He had a part-time job making \$3 an hour and he was hurt during that job and therefore the rates are based on that \$3 an hour, also the record of that gas station receives that black mark.

This is taken to the extreme when we have all those part-time workers and they all end up getting the higher wage. My gosh, the assessment is really going to have to go up. Isn't it?

Mr. McDonald: The possibility exists that the man is working three nights a week, three hours a night and his actual earnings from that employer could be \$27 a week and what you are going to assess against that employer is based on \$120 a week for a full-time worker. If everybody were a part-time worker, what you are saying is correct, that we are not receiving the assessment dollar to cover that injured worker's accident.

Mr. Haggerty: But is that not the way society is moving today particularly in employment, that is, more part-time workers day by day now. They cannot get 40 hours a week and many of them have to hold down three jobs to bring in a decent wage.

Mr. Laughren: All their incomes are cut off because of that injury.

Mr. McKessock: It is not so bad that he would be paid at the rate of being employed there full-time, that is not so bad for the employer, but if the employer was going to be assessed at the rate of his other job, which was maybe \$10 an hour, then that employer's workers' compensation premiums would be greatly increased.

Mr. Laughren: Wait a minute now.

Mr. McDonald: It is not a direct assessment against the employer, it is a pro rating of all the costs in that class.

Mr. Laughren: All the employees in that category.

Mr. McDonald: The cost would go against that class.

Mr. Kessock: The cost against that class would up their class.

Mr. McDonald: That is correct.

Mr. Laughren: But there may be 10,000 service stations in that group. You have to make a decision who you think should get the break, the employer or the injured worker. That is what you have to decide. The board has come down clearly on the side of the employer and I think that is not fair when you are dealing with injured workers. It is a very clear-cut case with bias towards the employers. It is very clear. The member for Grey (Mr. McKessock) has done us a favour by putting it in such a stark way. I do not think the public would disagree with that, that is what it does.

Mr. McDonald: That review was in accordance with the provisions of the act.

Mr. Laughren: I understand. You obey the law.

Mr. McKessock: I was trying to point out that I assume the law is made in this way so that it is fair to both--

Mr. Laughren: It is not fair to both.

Mr. McKessock: We just pointed that out. If you charge an employer a higher rate than his business pays then that is not fair to him.

Mr. Laughren: So how is it fair to the employee if it were the other way?

Mr. McKessock: Let us use another example. Let us say the employee is getting paid the rate he was getting paid at and not only on part-time, he is getting paid on the rate as if he were there full-time.

Mr. McDonald: If by chance his regular job paid him \$6 an hour and in some manner his part-time job paid him \$10 an hour, you would still pro rate the \$10 an hour over a 40-hour week and that individual would receive much higher benefits than he has actually earned.

Mr. McKessock: So there you are. Both sides of the coin. All sides of the story.

Mr. Laughren: No. I am going to pursue this because I

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(Mr. Laughren)

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cannot get it through the head of the member for Grey. The worker is still being discriminated against because he has two jobs. Let us use Mr. McDonald's example. He says that if the worker gets injured at \$10 an hour and he is only working three hours a week or whatever, three nights a week on that, and his regular job only pays him \$6 an hour--that was roughly the example he used--

Mr. McDonald: That is correct.

Mr. Laughren: --and the worker is losing both incomes as a result of that injury at \$10 an hour--

Mr. McKessock: But he is getting paid at \$6 an hour, now he is going to get paid on the \$10 an hour--.

Mr. Laughren: Now he is going to get paid on the \$10-an-hour rate, but he is losing both incomes, not just one, so the worker is still be discriminated against with that system.

Mr. McKessock: Definitely. When you have an accident you lose your income.

Mr. Laughren: Compensation is supposed to replace income when you get hurt.

Mr. McKessock: Some of it.

Mr. Laughren: You are not even replacing 75 per cent or 90 per cent of it. You obviously have to make a choice in this one. It is a very clear-cut example.

Mr. McKessock: The only way I can see the worker getting more than that if he has been hurt at both places at the same time.

Mr. Haggerty: Then you have got problems, haven't you?.

Mr. Laughren: You obviously do not believe in replacing income when a worker gets hurt. That is why I have always said that workers' compensation....

R-1510-1 follows.



(MR. ??)

~~in both places at the same time~~

Mr. McKessock: Then you have problems, have you not?

Mr. Laughren: You obviously do not believe in replacing income when a worker gets hurt. That is why I have always said that workers' compensation is the most class-biased legislation in Ontario. There is no other act that clearly discriminates against working people as the Workers' Compensation Act does. There is none in the province. You perpetuate it with this act. It was an opportunity to correct it in a small way here and there in the act, and you chose not to. This was a very clear-cut example of how you chose not to, with the support of the board and your Minister of Labour.

Mr. Chairman: We have debated this I do not know how many times in the past. It is outside of the annual report, and you admitted that, Mr. Laughren--

Mr. Laughren: Has this policy changed since 1983?

Mr. Chairman: I wonder if you could--

Mr. Laughren: And it is outside the act. Do not give me that nonsense.

Mr. Chairman: It is outside of the annual report, is it not?

Mr. Laughren: You do not think that the board is going to put in the report that they discriminate against injured workers, do you? They make sure they do not mention that.

Mr. Chairman: The point is--you have made your point on that. We have had a full debate on it. Mr. Haggerty has a supplementary.

Mr. Haggerty: I want the representative of the board to look at subsection 136(5b), on page 33: "Notwithstanding subsections 1 and 5 where the impairment of earning capacity of an older worker is significantly greater than is usual for the nature and degree of the worker's injury and where the opinion of the board is that the worker cannot return to work and is unlikely to benefit from the vocational rehabilitation program, which would lead to employment..." I want you to look at the words "which would lead to employment." The way I interpret that is that after every vocational program the board comes up with, there is going to be a job at the end. Can that be verified by somebody from the board, that everybody who goes through vocational rehabilitation program is guaranteed a job at the end of it? Is there going to be a job for him?

Dr. Alexander: I would rather have Mr. Darnbrough answer that question.

Mr. Haggerty: If the word "may" were there, I could accept it, but it does not say that.

Dr. Alexander: What you are saying is that there is no point in having a rehabilitation program unless and until the board has a guaranteed job.

Mr. Haggerty: That is right. That is what it is saying: "...which would lead to employment."

Dr. Alexander: If I interpret the words, it is preparing the injured worker to take advantage of the market skills that are required at any time--in other words, preparing the individual for the job market.

Mr. Haggerty: It says, "...is unlikely to benefit from a vocational rehabilitation program which," not may, "would lead to employment..." They are saying that there is a job--this is one of the difficulties I find about the board--if one were to make an appeal or the injured worker who goes to a rehabilitation program--they say there is a job.

If any of you have talked to any employees--I talked to one today in Fort Coborn concerning the number of persons laid off at International Nickel Co. and the difficulties a number of those of persons are finding trying to get established in employment--it is just so. The owner or manager of the industry said that they had gone through the whole list of employees laid off at Inco, and he said he regretted having to inform me that a large number of them will never be back in employment because of the degree of education--some of them may have third, fourth or sixth grade education. He said there was no hope for these persons. To a number of industries they are considered to be permanently unemployable.

When you stick a clause saying "which would lead to employment," to me--it is poor language, in writing a law, to use the word "which." I have seen "and" "or" "shall" or "may," but this uses "which would lead to employment." You are telling me that the board is guaranteeing employment to anybody going into this program. How successful is your rehabilitation program?

Of all the member who go through the program, how many get jobs? Is it 50, 60, 70, 80 per cent? Or is it down to 22, 17, or 18 per cent.

What was the number you were asking about, 793? We have not had an answer to that yet. You have asked; I have asked it, and we still do not have a number.

Mr. McDonald: I think you are misreading the section.

Mr. Haggerty: I am not misreading it. I know what goes on at the board, particularly, when you do make an appeal--

3:20 p.m.

Mr. McDonald: The purpose of this subsection is for older workers who are unlikely to benefit from rehabilitation--

(R1520 follows)



Mr. Haggerty:

... have not got an answer to that yet. Tony has asked it, I have asked it. We still have not got a number.

Mr. Chairman: The response has not come yet. Mr. McDonald has a point.

Mr. McDonald: Can I just comment that I think you are misreading the section, Mr. Haggerty.

Mr. Haggerty: I am not misreading it. I know what goes on down at the board when you do make an appeal.

Mr. McDonald: The purpose of this subsection is for older workers who are unlikely to benefit from a rehabilitation program or return to work. Then we can pay them the equivalent of old age. It does not apply in a case where a man is involved in a rehabilitation program. It is a totally different subsection.

Mr. Haggerty: But when it comes to an employee who got injured just recently, you use the same thing because you have two sets to follow the bill: The bill and what the board wishes to put in, what they interpret the act to mean or their criteria that is set there.

Mr. McDonald: The Legislature added the section to benefit injured workers, older workers, because we did not have that provision before.

Mr. Haggerty: I wish you had not put that in, "which would lead to employment." That communicates that every program you have there means there is employment on the end of the line.

Mr. McDonald: Not at all. Maybe Mr. Darnbrough would like to comment on rehabilitation generally as it relates to your question. I have to tell you, sir, you are misreading the section and its intent.

Mr. Haggerty: I am not misreading the denials of the appeals in this area, because they stress that very well.

Mr. McDonald: That section has not even been to appeals yet, with respect, sir.

Mr. Haggerty: That is what--you have another criteria, the little green book, if you want to put it that way, but it is there. You used that today. To go back into reading the number of persons who are trying to get employment and saying you are not co-operating with the board, but as I interpret that, it should never be in there, "which would lead to employment." You are telling me all your programs, regardless of where the injury happened or what year it is, are that successful it is going to lead to employment, and I suggest, under today's economic conditions, those jobs are not going to be there.

(Mr. Haggerty)

That is the point I have difficulty with, the board saying, once a person is injured he had less chance of obtaining employment. Many industries in the past, International Nickel Company, Atlas Steel, General Motors, and others, always had light duty jobs there. They are not there any more and you can retrain a person today but the jobs are just not going to be there.

Hon. Mr. Alexander: Mr. Haggerty, I think that the section we are referring to has nothing to do with anyone except older workers. If you read it as Mr. McDonald is saying it, "where the impairment of earning capacity for an older worker is significantly greater and unusual for the nature and degree of the workers, "and where in the opinion of the board, the worker cannot return to work and is unlikely to benefit from a vocational rehabilitation program which would lead to employment, the board may."


Mr. Haggerty: If you have just left that, "unlikely to receive any benefits from the workers' vocational rehabilitation staff, that is where you should have dropped it, but you did not do that.

Hon. Mr. Alexander: No, but I think that the vocational rehabilitation programs are of some significance, but it is really the older worker, because of the impairment and in the opinion of the board, he cannot return to work, and further that he could not take advantage of a vocational rehabilitation program which would lead to employment. In other words, there are two or three criteria which, if he meets, then the board makes settlement, and I would say in all these instances, the board would.

Mr. Lupusella: A supplementary on the older work issue. I understand that under Bill 101 there is now a section which covers people who have reached a certain age. Within the principle of the oldest it is a matter of policy to give the equivalent of the old age security pension to an older injured worker if he falls under specific criteria, Considering that he falls into the criteria of the board.

It is up to the pension department or the accommodation of the rehabilitation counsellor to give the benefit, the equivalent of the old age security pension from to an older worker within the framework of the present time. I am not talking about Bill 101. I am talking about the present policy not within the act but there is a policy of the board which will give the equivalent of an old age security pension if the person cannot be rehabilitated for particular reasons . . .

1525-1 follows



... recommendation of the rehabilitation counsellor to give the benefit of the equivalent of the old age security pension to an older worker within the framework of the present act. I am not talking about Bill 101, I am talking about the present policy is not within the act but there is a policy of the board which will give the equivalent of an old age security pension if the person cannot be rehabilitated for particular reasons, and also because he is affected by a permanent disability pension or other factors, languages or skills of his own trade and he is near 60 and so on.

My question is this: Why is the board not implementing this policy generally applied to injured workers that are in this category, and why are they supposed to go to different agencies in order that their representatives will apply for it.

If I have to understand and if I have to give credit to what the board is doing on this pamphlet, the WCB report which talks about personally tailored program like severe disability prevents the individual from taking a job, he or she may learn to become self sufficient in the home or acquire the assistance of social service agencies, explore other interests and lead an independent, satisfying life. They are nice words.

It appears that the injured worker does not have any problem and he might apply for welfare which leaves him or her in a stage of poverty. I happen to believe that the policy of the board within the framework of the present act is generally applied to give to an older worker this type of benefit, like the equivalent, the supplement pension, equivalent to the old age security pension, why the board is not giving these benefits and injured workers are forced to go to other representatives or other agencies in order for them to apply for such rights? Why is it not generally applied, because I am sure the only person who can make a recommendation for such benefit is the rehabilitation officer. Usually they do not make such recommendation. Because such a recommendation is nonexistence, the pension department is not even aware of that process.

Why the rehabilitation department does not take this lead to apply such policy for people who are falling into the criteria and give them this supplement pension automatically? Why are they supposed to apply for it?

Hon. Mr. Alexander: Mre. McDonald can give you a definitive answer or Mr. Drnbrough will give you a definitive answer vis-a-vis the older worker, but some time ago there was some question as to whether we had the legislative clout to bring about what could be called a discriminatory approach to workers' compensation, and it was at that time we have, you are quite right, a policy there to reimburse an older worker to the extent of, I guess, the old age security, and it was at that time we realized that we would have to look at this policy again.

(Hon. Mr. Alexander)

I think there was a commitment made at the time we were looking at it that the policy would stand, but realizing that Bill 101 was coming into place. In order to see to it that there was the legal clout, if you will, it is now enshrined in the act that the board can properly do that, look at the older worker--

Mr. Lupusella: I understand that, sir. Now you have the authority under the new act.

Hon. Mr. Alexander: We almost have it. In order to let you know just what is going on now, and since we were concerned about the discriminatory approach and what has happened since that time, I will call Mr. Art Darnbrough to advise you.

Mr. Lupusella: Before he will give us an answer, I think if I am going through the content of the answers, going back to last year review of 1982 annual report, I think this committee, and particular my friend and myself, gave you a recommendation to clear this policy in order that injured workers will benefit from the implementation of the supplement pension, equivalent to the old age security pension.

3:30 p.m.

You took the issue very seriously. I do not want to read the answers, but I hope that the whole issue will come to light now that we are discussing the content and the . . .

1530-1 follows



(Mr. Lupusella)

pension equivalent to the old age security pension. You took the issue very seriously. I do not want to read into the answers, but I hope that the whole issue is coming to light now that we are discussing the content and the extent of it. You were supposed to review and come up with an answer. I believe even the Minister of Labour got interested in the issue, because the issue was raised in the Legislature. I might be wrong, but I think the issue was raised in parliament.

Hon. Mr. Alexander: We have an answer now in the new bill.

Mr. Lupusella: No. I want an answer for people who are not covered under Bill 101--

Hon. Mr. Alexander: That is what I want to get to right now.

Mr. Lupusella: Okay. May I get it?

Mr. Darnbrough: The point which I would like to address is the role of vocational--and I emphasize vocational--rehabilitation in dealing with the older worker and, in particular, with this new section of the act. The point that needs to be made first is there is absolutely no difference in the level of service which will be provided to an injured person, regardless of age. The older person will get and has entitlement to every part of the vocational rehabilitation program that is available through the board.

In approaching the older worker, we take the view that this person has oftentimes a wide variety of skills and abilities which the work place is looking for. So we try to take it from an ability perspective rather than a disability perspective and proceed along those lines. When there we face, as we do from time to time, the reality that there is no further advantage to be gained from searching for suitable employment for the individual and the person agrees that is the case, then it becomes the responsibility of the rehabilitation counsellor to record all of that information, to come to the conclusion that there is no further point in pursuing work for this older worker, and to pass that information along to the claim service division pension people who will review this particular part, as far as supplements are concerned.

There is not, as such, in most cases, a recommendation actually made by the rehabilitation counsellor, but rather an emphasis placed by the rehabilitation counsellor on all of the details and the facts, and the likelihood for employment resulting from the continued program. The decision about supplementary payment is taken by the pensions adjudication staff.

Mr. Lupusella: I will give the floor to my friend here, but I would like to make a statement that at the time when a person is applying for such benefit, the rehabilitation file is completely closed. If I recall it correctly, on behalf of the people who applied for such benefits, their case or their rehabilitation file was closed a long time before I wrote a letter to the board. So, it appears there is no particular structure within the board to review such process.

It appears that the responsibility falls on the injured worker to make such a request and nobody else, because when the file from the rehabilitation department is closed, it is closed, period. It can be reopened, of course, if the injured worker makes future approaches to the rehabilitation department. But in relation to injured workers who come to my office, it appears that their file was closed a long time ago and there is no structure within the board to review such a recommendation as to whether or not the injured worker is entitled to the supplement pension equivalent to the old age security pension, because of the reasons which you have just described.

I would like to see something which will overview that process so the file of the injured worker will not be forgotten in the file cabinet somewhere.

Mr. Darnbrough: May I complete my--

Mr. Chairman: I think Mr. Darnbrough might make a brief response, but then I would like to get back to Mr. Laughren's statement.

Mr. Darnbrough: I would just offer reassurance to Mr. Lupusella on the point of a procedure which links the activity of the vocational rehabilitation counsellor with the actual decision about the payment of the supplement. With this new section to our legislation, clearly there is a mandate to review this particular entitlement--

Mr. Lupusella: I understand that talking about the injured workers.

Mr. Darnbrough: --and obviously then we have to establish concrete procedures and directions for counsellors and pensions adjudicators to ensure that the injured person, who is entitled to that provision, receives that provision.

Mr. Lupusella: I do not have any doubt about Bill 101 and that now the rehabilitation department has to take action on that particular section.

Mr. Darnbrough: Yes. It is--

Mr. Lupusella: My concern is about thousands of injured workers covered under the present act. That is my great--

R-1535 follows

~~(Mr. Darnbrough)~~

~~a mandate to view this particular entitlement~~

~~Mr. Lupusella: I understand that, talking about the other injured workers.~~

~~Mr. Darnbrough: --and obviously then, we have to establish concrete procedures and directions for counsellors and pensions adjudicators to ensure that the injured person, who is entitled to that provision, receives that provision.~~

~~Mr. Lupusella: I do not have any doubt about Bill 101 that now the rehabilitation department has to take action under that particular section.~~

~~Mr. Darnbrough: Yes. It is --~~

~~Mr. Lupusella: My concern is about thousands of injured workers covered under the present act. That is my great concern. I do not have any dispute. I have to see the implementation of Bill 101 to give you a revision of the activities of the rehabilitation department as to whether or not Bill 101 is widely and well implemented.~~

Mr. Chairman: Can we go back to Mr. Laughren?

Mr. Laughren: Before we leave that, what is bothering us is there was a policy on this till June 1983 and there is a policy after April 1, 1985. Is that correct? There is a two-year period when the policy is different. First of all, I do not know why the policy was changed in June 1983. Second, what are you going to do about those people in the two-year period?

Mr. Cain: Excuse me. In answer to ??your question, during the hearings, Mr. Laughren, you may recall that in reference, particularly to the older worker, it is correct that prior to June 1983 there was a policy to extend this entitlement to older workers and that ended with June 1983.

Mr. Laughren: Right.

Mr. Cain: I do not recall the date, but during the hearings, the minister announced that the board would be continuing to pay older worker supplements, that had been reviewed and it would be continued until this legislation came in to being.

Mr. Laughren: So there is no gap.

Mr. Cain: There is no gap. It is on now. We gave some groups assurance initially, shortly after June 1983, that while that was being looked at, we would not terminate any older worker's supplement, as I recall it. But I do know it is back on.

Mr. Laughren: So there is no gap there.

Mr. Cain: No. There should not be any gap.

Mr. McDonald: May I say that it arose out of a meeting that we held at the minister's office with representatives of the injured workers' group, who brought this to our attention. It was reviewed as a result.

Mr. Laughren: All right. May I make a few comments on the claims services division. I do not know whose division that is.

Mr. McDonald: It is mine, sir.

Mr. Laughren: It is yours. I see. Is it true that there were something like 50 claims adjudicators who quit last year without even having other jobs to go to?

Mr. McDonald: No, sir.

Mr. Laughren: No?

Mr. McDonald: No, sir.

Mr. Laughren: You do not have a turnover problem with claims adjudicators?

Mr. McDonald: I can give you the specific figures. I do not have them with me, but I can get them for you.

Mr. Laughren: You do not know it is a problem anyway.

Mr. McDonald: No. I do not believe so, sir.

Mr. Laughren: Because we were getting complaints that because of this turnover, fairly junior people were making decisions which then--this was not told to me, but I concluded that perhaps this was one of the reasons why the claims review branch--Do claims adjudicators not work in the claims review branch?

Mr. McDonald: No, sir.

Mr. Laughren: Oh, that is totally different.

Mr. McDonald: Yes, sir.

Mr. Laughren: Is this before you get to the claims review?

Mr. McDonald: Quite a bit.

Mr. Laughren: Oh, I see. Okay. So that is the first level of dealing with the claim.

Mr. McDonald: That is correct.

Mr. Laughren: I see. I had heard that there was a very high turnover this past year in claims adjudicators, in other words, causing problems because very junior people were making a lot of decisions which they really had not fair training to make.

Mr. McDonald: There were some adjudicators who left during the year; they had other employment that they went to. There are also adjudicators who have moved up within the organization. So, if you talk about the total loss to the claims services division--

Mr. Laughren: It might be ??different. Yes.

Mr. McDonald: With respect to some promotion, yes, but with respect to leaving--

Mr. Laughren: Yes. But that was because they were--

Mr. McDonald: No. They are still adjudicating claims only at a different level.

Mr. Laughren: I see. Somebody told me, as well, that you are behind in claims adjudication and that claims are going out to your area offices in Sudbury and London to be resolved.

Mr. McDonald: No, sir. That is not correct.

Mr. Laughren: That is not correct.

Mr. McDonald: No, sir.


Mr. Laughren: Because it would explain some of the problems with workers getting responses back when they have got problems with a claim.

Mr. McDonald: Your information is totally inaccurate in that respect, sir.

3:40 p.m.

Mr. Laughren: Okay. I wonder if I could conclude with just a couple of things. One is on vocational rehabilitaton. When I see some of the decisions which are made, I really start to view rehabilitation counsellors more as benefit control officers than rehabilitation counsellors. That is not true in every single case or anything like that, but it bothers me. I wonder whether or not--

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...That is not true in every single case or anything like that but that bothers me. I wonder whether or not the counsellors are plugged into the possibilities of part-time work for injured workers. Because of the prevalence of part-time work now, is the courses is being sponsored by the workers' compensation board, by rehab, are keeping pace with the world out there? I do not know that, I am just concerned about it as things change.

For example, I have had complaints about French-speaking workers who need courses in English especially designed for injured workers. In Metro I suspect--I am on a guess--there might be other problems of other-language people being trained to improve their English so that they can cope better out there.

Also, the whole question of employers' hiring so many injured workers, almost like an affirmative action program to hire injured workers. It is very difficult and I do not minimize the problem there. For example, there are a lot of injuries in the forestry and mining industries and yet, I suspect if you were to do a chart you would find out that the industries with the most injuries employ the least injured workers.

I am only guessing but because of the nature of the work, it is very hard to find light duty for someone in the bush--very, very difficult. I do not know what the board is doing about that. I would be interested in knowing whether or not you have a program of affirmative action, and second, whether or not that program is linked to assessment rates. If it is not linked to assessment rates, then are you dependent upon the goodwill of those employers? I wonder if you want on that given the track record.

I would like to see it pursued more aggressively. I do not think the board is very aggressive in this whole field. Does the board initiate any complaints before the Human Rights Commission when employers' violate that part of the act of the Human Rights Code? I have not heard of any cases of that happening, perhaps you have.

Mr. McDonald: That provision is not there yet.

Mr. Laughren: In the act?

Mr. McDonald: Yes.

Mr. Laughren: It is in the Human Rights Code though, is it not?

Mr. McDonald: It has been added as a result of this amendment as of April 1.

Mr. Laughren: But I thought it was in the Human Rights Code, itself.

Mr. McDonald: It is specific, if you look at--

Mr. Laughren: I know it is in the act.

Hon. Mr. Alexander: Not it is in the act.

Mr. McDonald: "An injury or disability for which benefits were claimed or received under the Workers' Compensation Act." That is the section that is being added to the Human Rights Code.

Mr. Laughren: Section 39.

Mr. Darnbrough: Excuse me, Mr. Laughren. The change that is being made by Bill 101 specifically refers to workers' compensation cases. The Human Rights Codes, when introduced two years or so ago, made general reference to people who were disabled or had disability. So to that extent, yes, and I will be glad to explain what we are doing in that regard.

Mr. Laughren: Okay. Unless the board gets aggressive there, why would the employer get aggressive unless it is linked to assessment rates and there is an incentive to do something about hiring injured workers. Is that possible? The board must tear out their hair, too, on occasions when the employer says: "We have no light duty for this worker" time after time after time even though the worker got injured there on the job.

Hon. Mr. Alexander: ??I am not trying to second-guess Mr. Darnbrough but I know that I have often gone before employee groups and indicated to them, being realistic, that employers are certainly interested in financial motivation. I guess you have seen the ads, "Hire a comback" whereby we hold out certain incentives to employers to hire a rehabilitated disabled worker.

Mr. Laughren: I understand.

Hon. Mr. Alexander: It means that we would say something to the effect that, "You ~~can~~ work with a particular person for some four weeks at no cost to you. If that particular person--he or she--meets your demands, fine."

There are about two or three forms which you have to file. We have a job list of people who are waiting. If that is not enough, after having considered that person, you may want them but at the same time you feel that they want some training on the job, we will subsidize that up to some 52 weeks. Another incentive we hold out is to improve the work place in terms of economics, if you will...

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he or she meets your demands, fine. There are about two or three forms which you have to find. We have a job list of people who are ready. If that is not enough, after having considered that person, you may want them, but at the same time you feel they want some training on the job, we will subsidize that up to some 52 weeks. Another incentive we hold out is to improve the work place, with respect to ergonomics, in order that the injured worker has the ability or the wherewithall to at least do the job that this employer wants. The last thing we say is if the injured worker who has been rehabilitated does get injured as a result of us placing that person on the job, it is at no risk to them.

We try, in that limited way, to convince employers that there is a skill bank out there from which there have not been sufficient withdrawals. I think the program has been relatively successful. We know that the rehabilitation and job counsellors, together with myself--I try to get involved but that is a high profile approach--and I think it has worked, but there is need for improvement in trying to convince the--

Mr. Laughren: But there is no link between assessment rates and the hiring of injured workers?

Hon. Mr. Alexander: I cannot answer that question directly. I am not trying to evade that. I think it is part of your question. Perhaps Mr. Darnbrough will give us some indication of what the kind of affirmative action program we are taking in order to convince employers--

Mr. Laughren: I only have one more point--

Hon. Mr. Alexander: Let us get through with the affirmative action bit.

Interjections.

Mr. Laughren: I was wondering about the whole question, to be parochial for a moment, in the Sudbury area, can you tell me what the total annual assessment is of employers in the Sudbury basin?

Hon. Mr. Alexander: I do not think we have that information here now, but there is that possibility. I am not too sure. I do not normally take it on the basis of the Sudbury basin or the Hamilton-Wentworth basin, or the Ottawa region basin. I am not too sure of that.

Mr. Laughren: You do not have it.

Hon. Mr. Alexander: If we could find out the employers that have paid us assessment in the Sudbury basin, we would be able to do it, but I do not think we keep statistics to that extent. I see Mr. Gord Russell, who is executive director of finance, he is shaking his head in a negative way.

Mr. Laughren: But you do have the total amount of assessment for the nickel industry?

Hon. Mr. Alexander: Oh, yes.

Mr. Laughren: That only consists of Inco and Falconbridge?

Hon. Mr. Alexander: Right.

Mr. Laughren: Do you know what that figure is?

Hon. Mr. Alexander: I do not think we have it here now, but we could get that for you.

Mr. Laughren: I would appreciate that. The other thing I was wondering about was this form, finally, medical report to employer for prompt rehabilitation.

Hon. Mr. Alexander: Is that the one that was brought up earlier that someone thought the board had something to do with it, which was entirely wrong?

Mr. Laughren: If the board does not want to be associated with it--think about it--it states right at the top, medical report to employer for prompt rehabilitation, that does not say the board, but in the very next sentence, "The Workers' Compensation Board's concept of early medical and vocational rehabilitation is" etc. If I were a physician, I would assume this came from the WCB.

Hon. Mr. Alexander: I cannot answer that.

Mr. Laughren: It says, physician, employer and worker.

Hon. Mr. Alexander: I think Mr. Cain has some information as to what this form is all about. Mr. Cain, would you direct yourself to the question?

Mr. Cain: One of the important factors that you have to note is that first, the injured worker has to agree to sign it before it can go on to the doctor, and that is very important. In mentioning the board at all, there are also cautions under subsections 1, 2 and 3. These are things that are very important, because the board does not want something going between employers and doctors that has anything to do with an injured worker, without those three subsections in there.

Mr. Laughren: You mean (a), (b), (c)?

Mr. Cain: The one, two, three, the work must be productive, cannot aggravate--they are very important.

Mr. Laughren: Do you not see here the employer is inserting himself or herself between the board and the worker? The board does not get a copy of this--physician, employer and worker.

3:50 p.m.

Mr. Cain: It seems to me the encouragement here is first, the employer recognizes they should take their worker back to work. That is something we have all wanted and are despairing about. They do not do it often enough. At least, first we have an employer here that is willing, perhaps, to take the person back. Second,

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himself or herself between the board and the worker. The board does not get a copy of this--physician, employer and worker.

Mr. Cain: It seems to me that the encouragement here is that, thank goodness, the employer recognizes that they should take the worker back to work. That is something we have all wanted and are despairing about, that they do not do it often enough. At least, first, we have an employer here that is willing perhaps to take the person back.

Second, that employer is saying to the doctor, "What can this person do that I might be able to provide them with?" I can understand that the caution would be there. Sure, the employer says one thing here but when the poor fellow goes back to work that is not quite the case. A worker certainly has the right then to complain and a vocational rehabilitation counsellor goes out and checks on it.

Mr. Laughren: Hold on now. The board sends a report like this to the doctor.

Mr. Cain: A medical report. It asks for a history of accident, diagnosis, findings, when the person might be able to return to work, that kind of thing, yes.

Mr. Laughren: If you are a physician, do you want this form?

Mr. Cain: Physicians will decide whether or not to fill it out, but I would hope if the worker signs it that they will.

Mr. McDonald: He gets paid extra.

Mr. Cain: By the way, it states the employer will pay for it, not the board.

Mr. Laughren: Where does it state that?

Mr. Cain: Right above "Physician, please complete section below and return part 2."

Mr. Laughren: That should tell you something, too.

Mr. Cain: It tells you it is not a Workers' Compensation Board form because the employer is paying it.

Mr. Laughren: Why would the employer be willing to pay? I just think there is something happening here that I do not like.

Mr. Cain: It is the safety association, apparently, that arranged it, which means there must be some employers in that safety association that feel an obligation, an opportunity, whatever, to get injured workers back to work. I suspect the reason is because it cuts their assessment costs to get the person back to work.

Mr. Laughren: That is what you think?

Mr. Cain: I do.

Mr. Laughren: It makes me nervous.

Mr. Cain: I can understand your nervousness. I am not questioning that.

Hon. Mr. Alexander: I do not understand your nervousness, but I do not like to disagree with my colleague. I am trying to find out--the form at the very top, the medical report for employer for prompt rehabilitation. I think that we are all concerned about that, "prompt rehabilitation." I think that you articulated that very well. Then it quotes the board policy, I guess.

"The Workers' Compensation Board's concept of early medical and vocational rehabilitation is the work must be productive, the work provided will not aggravate the workers' injury." Both of those, I would say, are in favour of the injured worker. Three, "the worker's injury does not constitute an additional hazard to the worker or fellow workers while performing the work assigned." Would you not say they are admirable principles? Okay so far?

Mr. Laughren: Yes, I am not questioning the principles.

Hon. Mr. Alexander: You move on through the rest of it. I had not seen the form and I am just trying to find out what your concern is. "To be completed by the employer." The name and address of the employer. Over on the right it is the injured worker information. Then down further, "description of normal job actions and requirements." I do not know who fills that out. "History of accidental injury or industrial disease, see reverse of form 7 attached."

Mr. Laughren: If I were running the compensation board, I would be offended at this intrusion into the compensation system. Do you think for a minute--

Hon. Mr. Alexander: Explain to me where the intrusion is. That is where I am losing something here.

Mr. Laughren: For one thing, there is duplication. There is duplication between what the board does with its medical report and this form. Second, do you think for a minute that an employer who gets a copy of this will not use this during an appeal if an appeal comes up if it suits their purpose?

Hon. Mr. Alexander: I think what you are saying is that the employer is going to be dishonest with respect to the form. It is the employer's form for which he is going to pay which I assume the bottom line is, "Give me enough information so I can determine whether I can take this man or this woman back." That is the way that I read the form. Maybe I am reading something inaccurately here, but I think it is a form that I look at in terms of prompt

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rehabilitation, which is just what it says. I could be wrong, but I think I am right.

Mr. Laughren: I guess we will have to wait and see, but I am waiting for the first time there is an appeal and the employer waves this in my face.

Hon. Mr. Alexander: If he waves it in your face, what does that mean? Are you saying that the information--

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...first time there is an appeal and the employer waves this in my face.

Hon. Mr. Alexander: If he waves it in your face what does that mean? Are you saying that the information here will be fraudulent, incorrect, hiped, inaccurate?

Mr. Laughren: No. It seems to me that anything that goes on with the injured worker, and benefits, the intermediary should be the compensation board. That is what it is there for. It is for both the employer and the employee. Here you are allowing the employer to insert themselves into the process without the board. Do you have anybody making decisions without having access to this yourselves?

Hon. Mr. Alexander: Maybe I have lost something here, Mr. Laughren.

Mr. Laughren: I would be upset if I was in that position.

Hon. Mr. Alexander: I am not all that upset.

Mr. Laughren: I know, I can tell you are not.

Hon. Mr. Alexander: I do not mean to make light of this. I look at the form as being a document which helps the injured worker to go back to productive employment because of an interested employer. I could be wrong, but that is the way I am looking at it, and for which the employer is paying. We are not paying.

Mr. Laughren: Not at all. Okay.

Mr. Chairman: It appears that we are at the end of that stage of the opening statement. Mr. Haggerty had something he wanted to raise. From then on, unless there is some objection to it, we should try and move into responses to some of the concerns that have been raised.

Mr. Haggerty: I thought, Mr. Chairman, that we had some of the responses from members of the board but we are still waiting for some.

Mr. Chairman: That is exactly what I was aiming at. As soon as the questions are finished we should get responses.

Hon. Mr. Alexander: We have all the questions documented and we are prepared to move but I do not know when to jump in, and time is running. You have another 35 minutes, and we have questions here.

Mr. Haggerty: Yes, I was looking at your annual report so I will stick to that more so than anything this afternoon. I was concerned about the services that the WCB does perform for

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other agencies in particular. I am sure, that the chairman of the board is knowledgeable of the functions of the Minister of Labour, federally, is that in many cases you do provide services through the Ministry of Labour in regard to agencies that come under the federal government. For example, I am talking of Great Lakes shipping, of the persons employed on ships and vessels on the Great Lakes.

Hon. Mr. Alexander: Oh, I see what you mean.

Mr. Haggerty: We come into the transportation area of the Canadian National, VIA Rail and companies like that. I see nothing in here where there is a charge for a fee for service. Mr. Wilson, the Finance Minister of Canada, is coming out with a policy now that says that when any government agency supplies a service that there is going to be a fee for service. Is there any source of revenue coming in to the WCB in this area in regards to handling administration costs and red tape that must go through down through the board? Is there a charge back to the federal government?

Hon. Mr. Alexander: Oh, yes. What you are talking about is an offshoot of the schedule 2 employer of which the federal government would want. Every board, whatever the arrangement may be with respect to federal employees in that province, adjudicates on behalf of the federal government. They pay the shot. We charge them. I do not know whether it is 12 per cent. It is 12.5 per cent.

Mr. Haggerty: I see that is not listed in here as revenue for the board here in this area. What are the dollars we are talking about here that you are charging to the federal government?

Mr. McDonald: It is on page 25.

Mr. Haggerty: Is it on page 25?

Hon. Mr. Alexander: Under the audited statement?

Mr. Haggerty: I see you have something for rehabilitation. Whether that is it or not I do not know.

Hon. Mr. Alexander: Administration costs, I guess, schedule 2. This is a whole thing with respect to schedule 2. There is some \$10.632 million. That is the administration costs. I guess that is the 12.5 per cent I was talking about.

Mr. Haggerty: So that is the almost the \$10.632 million then we are talking about.

Hon. Mr. Alexander: Yes. We are doing the work for them.

Mr. Haggerty: For doing the work.

Hon. Mr. Alexander: That is right. That is for the adjudication and whatever that is required.

4 p.m.

Mr. Haggerty: Does that just cover the cost then, or is there an extra fee above that? If you did not have to administer this you would not have to have employees down at the board. Does it cover--

(Tape R-1600 follows)



--Does that just cover the cost then or is there an extra fee above that? We are talking about, if you did not have the minister of this you would not have to have all those employees down below. Does this cover the cost of the additional employees?

Hon. Mr. Alexander: I cannot answer that question. Mr. Reilly or Mr. Russell. I know we charge them a going rate. It fluctuates. Right now it is 12.5 per cent. What it covers I cannot answer that question. Perhaps one my my colleagues can.

Mr. Reilly: Mr. Haggerty, this is an audited figure and it does represent the portion of the board's total administration that relates to handling schedule 2 claims. That would be a portion of our total costs for the administrating.

Mr. Haggerty: That is their portion and this is what you are telling me, the \$10 million. How many employees would that include that have to look after one particular area?

Mr. Reilly: You could not really break that down because it is scattered throughout the entire organization and it is just based on the number of claims for them compared the number for schedule 1.

Mr. Haggerty: In other words there is no profit made out of it. But you can assure me it covers the cost involved.

Mr. Reilly: Yes.

Mr. Haggerty: Shouldn't there be additional costs involved? If you run into difficulties, financially are there other hidden costs that really are not taxed into this that you should be looking at?

Hon. Mr. Alexander: I guess it is a balance of complex claims and simple claims in the long run.

Mr. Haggerty: There is nothing simple in claims with the workers' compensation. I have not seen any yet.

Hon. Mr. Alexander: I know what you said, but I know you are saying it in jest. There are certain matters within the board that we might have had that you have not heard about that some 90 per cent of the claims are paid within three days. But that is just begging another question.

I think what has happened here, and I can be corrected, a percentage was determined and it fluctuates. Right now it is 12.5 per cent. I think that covers the cost which we feel is required--let me go to the limit--of a break even point with respect to the work that we have to do in administrating the schedule 2 operations.

Mr. Haggerty: Have you thought about changing the administration, that you may get additional revenue or what?

Hon. Mr. Alexander: It has not been brought to my attention. Perhaps one of my colleagues. Perhaps Mr. Reilly can address himself to that. I know that I have known that there is a percentage charged to the federal people and as well there is a percentage charged to the provincial people. I think the difference is perhaps one percentage point or half a percentage point. One item, I do not know who is charged the most, the province or the feds. Hopefully it is the feds.

Your direct question, had we thought of changing it--

Mr. Haggerty: You have a shortfall of revenue coming in, there is no doubt about it. I was just wondering, maybe the share charges are not high enough.

Hon. Mr. Alexander: That is a point we will certainly look at. I do not know whether Mr. Reilly has anything to say.

Mr. Reilly: The schedule 2 administration charge is not a source of reducing revenue for the board. It is a source of covering the costs of administering the claims. I do not see how we could really levy additional charges against them to offset oncoming liability which is a schedule 1 liability not a schedule 2.


Hon. Mr. Alexander: I might add that the federal government--just off the top of my head--they are a little concerned about the discrepancy in compensation throughout the entire million and they are thinking about it, just thinking about it, but when they know the complexity of what we have to deal with as individual boards, I do not think they want any part of it. They were crabbing about the rates. There are varying rates right across this country in terms because of the varying rate scales across this country and they find that some of their employees within the federal sphere, it could leave a little something to be desired.

But, in looking at it, and they have been studying this some time in terms of whether they should be doing their own compensation work. I do not think they have made up their minds. All I can say is--

Mr. Haggerty: I suppose the minute that the unfunded liability is assessed to schedule 1 and they are really not schedule 2, if they ??

Hon. Mr. Alexander: They understand what the unfunded liability means. I think what they are concerned about is the complexity and the work that goes into the several compensation systems throughout this country, whether they want to be bothered with it. Whether they are much better off by letting the respective boards across this country deal with the federal employees then in the several provinces--

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~~the work that goes into the several compensation systems throughout this country, whether they want to be bothered with it, whether they are much better off by letting the respective boards across this country deal with the federal employees in the several provinces, and/or the territories.~~

Mr. Haggerty: Why would you single out schedule 1 for employee-employers to be responsible for the unfunded liability and then we come to schedule 2, a different type of employee, where there is really no charge back to him. They are not paying any of this unfunded liability. Should there not be a charge? Should there be a difference between schedule 1, schedule 2 and schedule 3 employers? That way they are not picking up a share of this unfunded liability.

Hon. Mr. Alexander: Mr. Reilly will answer that. I had an easy answer, but maybe it is not all that easy.

Mr. Laughren: The question is already put. I thought we were supposed to be getting answers to questions that had already been put.

Hon. Mr. Alexander: I have no control over that.

The Acting Chairman (Mr. Lane): Mr. Haggerty had the floor for a question, and then we were going to revert, with your permission.

Mr. Reilly: As far as schedule 1 is concerned, this is a schedule 1 of accident fund. The unfunded liability only pertains to schedule 1. Schedule 2 are employers operating using public funds. They are pay as you go, being the federal government, the provincial government, the municipalities, and rental, lease and navigation companies. These are on a pay-as-you-go basis, whereas schedule 1 is an accident fund.

Mr. Laughren: They have no unfunded liabilityu.

Hon. Mr. Alexander: No, because in short what we pay out, we get back, and we charge them 12.5 per cent while they are doing all the work.

Interjection: It is on a cash basis.

Mr. Laughren: The public sector again, the public sector running their business better than you are, and you are the ??private sector.

Hon. Mr. Alexander: I will just let that one go over my head.

Mr. Haggerty: I am just suggesting to you--

Mr. Laughren: I could not go over your head.

Mr. Haggerty: --that you have to come to grips with this unfunded liability, and you are going to have to come up with either higher assessments--and the higher assessment should not be just to schedule 1, but it should apply to the whole system.

Hon. Mr. Alexander: But there are no assessments to schedule 2.

Mr. Haggerty: That is what I say. That is where the difficulty comes. How do you--

Hon. Mr. Alexander: The assessment with respect to schedule 1 is an entirely different thing than having a pay-as-you-go program with schedule 2. What we pay out, we get back plus a little something for our trouble--12.5 per cent. We talk about a fund, and we are talking about an accommodation that we have with the provinces and/or the federal government. It is an accommodation. When it started, Lord knows, I do not know, but there is an agreement.

Mr. Haggerty: I do not know either. What you are telling me--

Hon. Mr. Alexander: It has been around for a while.

Mr. Haggerty: --you have two standards of employees. You have one on a pay-as-you-go policy that comes forward with a balance sheet every year, but you have schedule 1, that is a different matter altogether. It is not a balance sheet but a deficit, year after year. Unless you combine both together, and say, "Look, you have the whole problem here and somebody has to share in that unfunded liability."

Hon. Mr. Alexander: I do not think that the fund, per se, is the responsibility of schedule 2 employers. I ?? the fund, under the act.

Mr. Haggerty: When you can get one that is going to come in with a pay-as-you-go policy or a balanced budget, and you have the other one that seems to run off on a wild dream that eventually everything is going to end up even. I doubt it. How can you have one administered by the board that sticks within the rules of balanced budgeting and the other, you cannot.

Hon. Mr. Alexander: Because one is pay-as-you-go.

Mr. Haggerty: Yes.


Hon. Mr. Alexander: If you are telling us that what we should have is pay-as-you-go under schedule 1, that is another issue. That is the one that you chaps have been dealing with, with respect to the unfunded liability.

Mr. Haggerty: I do not know, but we do not have the facts presented to us. I do not know the complete dialogue between the hearings on the white paper or the Wyatt paper. I have not gone into detail on that particular part, but the answer is you have two different agencies within the one and one is pay-as-you-go and the other you can just keep on going with deficit spending if you want to.

Hon. Mr. Alexander: Because of ad hoc amendments, ?? inflation and with the rise in the ceiling periodically. There are a lot of reasons why the unfunded--

4:10 p.m.

Mr. Haggerty: The same applies in schedule 2. They have the increases too. Maybe there should be more...
R-1610-1 follows



~~(Hon. Mr. Alexander):~~ rise in the ceiling periodically. There are a lot of reasons why the employment, as you say, is growing.

Mr. Haggerty: The same thing would apply in schedule 2. They have got the increases, too. Maybe there should be more research done into this particular area.

Hon. Mr. Alexander: Your point is well taken. I am not treating it lightly at all. I am just trying to convince--not convince, but at least bring to your attention that there are two. One is an accident form under schedule 1, which is the act. The other is an accommodation to the federal government and to the provincial government whereby we are doing the work that perhaps they should be doing themselves but because we have the expertise--and I notice Mr. Laughren and Mr. Lupusella laughing at that--they have allowed us to do what we are doing now. We adjudicate their claims.

What we pay out we say, "Sir, here are the books. We have paid out \$10 million" or \$40 million or whatever the book says. "On top of that, we not only want that expenditure paid up but, for our trouble, we will add another 12.5 per cent."

Mr. Haggerty: That goes back to the question I raised a couple of days ago. I have not been around municipal government for the last 17 years, but I know some municipalities a few years ago used to buy their own insurance. They let the board make the decision on what pension should be given to a person who had become injured. They used to carry their own insurance and then there used to be a payback from that to the board somehow. I guess you would call it municipal reserve funds that they would have set aside for that. It worked out very well for a number of them.

When I look at schedule 2, maybe the industry is providing--I think of one of them, Great Lakes Shipping, for example, that carries workers' compensation but they also carry a private insurance. I believe the headquarters are down someplace in--I would not say the Cayman Islands but down in Bermuda, I think it is. They have offshore insurance down there that I suppose can be used for different matters of benefit to the company when they are putting money in reserve into a pension scheme. I am sure that once a decision is rendered by the board that there is a claim allowed on that, that perhaps they are paying that through that private insurance company.

The point I am trying to get to is, if the private insurance companies can provide perhaps a pay-as-you-go policy, maybe that is what we should be looking at for the whole thing, a private carrier, instead of the board. I do not have the answers, but I would just suggest to you that--

Hon. Mr. Alexander: I appreciate the statement that you have made. That is about all I can say. I know we have an act. I do not think it is going away. I would love to see it go away. As I said before, the answer is--and I think I am stealing Mr. Laughren's point--to create a very safe working environment

js
(Hon. Mr. Alexander)

whereby there are not any accidents, which is an impossibility. On the other hand, if you can have that perfect work place with a minimum of injured workers, take him back to work. If both of those things happen, you will not be here looking at this report because we would not have a report and you would not have me.

Mr. Lupusella: Mr. Laughren is talking about the utopian process, which you are talking about with us.

Hon. Mr. Alexander: Which process was that?

Mr. Lupusella: Utopia.

Hon. Mr. Alexander: Utopia, yes. What is your point?

Mr. Lupusella: You have been talking about the ideal--

Hon. Mr. Alexander: That is right, and we are not going to have it. That is why we have the--

Mr. Lupusella: Mr. Laughren is talking about utopia--

Hon. Mr. Alexander: Mr. Laughren follows, with all due respect, the policy or the philosophy of Professor Terry Ison. Mr. Laughren would like to see this whole thing scrapped and brought under general revenue.

Mr. Laughren: No.

Mr. Lupusella: No, we never said that.

Mr. Laughren: Gross distortion.

Hon. Mr. Alexander: But it is close to that.

Mr. Chairman: You just may be accused of putting words in Mr. Laughren's mouth.

Hon. Mr. Alexander: It is close to that.

Mr. Laughren: No, it is not, not the general revenue part.

Hon. Mr. Alexander: Yes, it is.

Mr. Laughren: Not the general revenue part.

Mr. Lupusella: I was talking about the second injury plans. That is why you had to get the money, not the general revenue funds--second injury funds. Maybe you misunderstood this point.

Hon. Mr. Alexander: I know his point.

Mr. Chairman: Let us not get back into it.

Hon. Mr. Alexander: His point is that he does not want the board because there is another system which could look after the person. The person who is affected by exhaust fumes out in the street is not recognized in terms of the Workers' Compensation Act.

Mr. Chairman: Or some of the committee rooms that are smoke filled.

Hon. Mr. Alexander: If the same fume happened to take place within the working environment, then the board recognizes that. You take issue with that and that is your policy. Do not tell me I am wrong, sir.

Mr. Laughren: Where you are wrong--the chairman has provoked me, Mr. Chairman. Where he is wrong is that I do not believe it should come out of general revenue. I think the employers should pay their, which they do not now.

Hon. Mr. Alexander: That is another dimension of the situation which I brought to your attention.

Mr. McKessock: What do you mean by "the employers do not pay their share"? Do they not pay at all?

Hon. Mr. Alexander: You will have to ask Mr. Laughren that--

R-1615 follows

~~...you take issue with that. That is your policy. Do not tell me I am wrong, sir.~~

~~Mr. Laughren: You are wrong. The chairman has provoked me. That is where he is wrong. I do not believe it should go to general revenue, I think the employers should pay their share if they do not now.~~

~~Hon. Mr. Alexander: That is another dimension of the situation which I brought to your attention.~~

~~Mr. Kessock: What did you mean by: "The employers do not pay their share," do they not pay at all?~~

~~Hon. Mr. Alexander: You will have to ask Mr. Laughren that, because that is not what I said.~~

Mr. Laughren: Employers pay the total cost of compensation but if you have been listening to the injured workers, if you come into a constituency office and listen to the representation of the Association of Injured Worker's Groups and so forth, you will know that they are not getting the fair shake they should, therefore, the employers are not collectively paying what they should to injured workers in the province.

Mr. McKessock: You said they are not paying their share. They are paying the whole thing.

Mr. Laughren: No, the public sector picks up a big part of the share and I think that is wrong, through welfare payments and so forth.

Mr. McKessock: Canada pension.

Mr. Laughren: Canada pension.

Mr. McKessock: Outside workers' compensation.

Mr. Laughren: No, I am talking about what the compensation board should be paying for and is not paying for.

Mr. McKessock: That brings up a question when you say whether it comes out of the consolidated revenue fund or paid entirely by the employer. Have you ever done any study as to what percentage of the accidents are the fault of the employee and what per cent are the fault of the employer?

Hon. Mr. Alexander: It is a no-fault system so we are not--we are interested in how accidents occur so we can advise the employers to straighten out the work place. In other words, ?? --is that the accident report? They are pouring over the Occupational Health and Safety Act by way of the Ministry of Labour but when it comes down to determining whether the injured worker is entitled to it, fault is not of immediate concern.

Mr. McKessock: So you have never looked into that at all.

Hon. Mr. Alexander: There is one section, "wilful and serious misconduct" or something like that but it is very seldom ever invoked. Fault does not play a part. It is a no-fault system, therefore, if the injured worker is hurt or disabled--

Mr. McKessock: When we talk about the employer paying his share, there are a lot of employers out there who certainly take injury and compensation very seriously but there are also times when no matter what extent they go to to prevent accidents, they still occur. It is not always the fault of the employer. We all know ourselves, we have all been in accidents and we know it could be the lack of sleep, not taking proper precautions or there are various ways that accidents happen that employers cannot always to called the person at fault.

Mr. Lupusella: Their assessment should be reduced. I still do not understand where you are trying to get to.

Mr. McKessock: Pardon?

Mr. Lupusella: What are you trying to demonstrate?

Mr. McKessock: It was brought up who should be paying for--

Mr. Lupusella: The employers are supposed to pay because of a no-fault insurance scheme. Floyd has been stating that the board, at the present time, is underfunded. The employers should pay more to eliminate the problem of accidents and prevention should be placed as a prime goal to make sure that their assessment should be reduced. Do you have any other idea to reduce the assessment coming from employers?

Mr. McKessock: Something about the unfunded liability was brought up by your colleague.

Mr. Lupusella: You misunderstood his point.

Mr. McKessock: Not the unfunded liability but the consolidated revenue fund.

Mr. Lupusella: We did not raise the issue.

Mr. Laughren: I am opposed to that idea. Mr. Chairman likes that idea.

Mr. Chairman: I like the act as it is continually reviewed and brought up-to-date through your expertise. That is why we are being more progressive than any other province in the Dominion of Canada.

Mr. Lupusella: Getting back to the business of the day, do we have some answers or are we going to adjourn?

Mr. Chairman: That is entirely up to the committee. I believe we are finished with our opening statements.

Mr. Lupusella: Not yet.

Mr. Chairman: Are they not finished yet?

Mr. Lupusella: No, I want answers and tomorrow I am going to get into other issues. I was so generous--

Mr. Chairman: We have two minutes for answers--

Mr. Lupusella: No, tomorrow they can get into--

Hon. Mr. Alexander: All right, let us go through--my colleagues have prepared something for me.

4:15 p.m.

Mr. Lupusella: Mr. Chairman, because the answers are related to different concerns which have been raised and because some members would like to get into a debate about the answers, I do not think it is appropriate.

R1620 follows



(Mr. Lupusella)

...because the answers are related to different concerns which have been raised and because some members would like to get into a debate about the answers, I do not think it is appropriate to rush the answering process now.

Interjection.

Mr. Lupusella: ??the opportunity for members to reply or to raise more questions.

Interjection.

Mr. Lupusella: Did I accuse you of that? I did not.

Mr. Laughren: ??Do I not have a right to answers to my questions? I do not understand this.

Hon. Mr. Alexander: We are ready to answer questions.

Mr. Chairman: Why don't you speak with your colleague? He is the one who is opposing you.

Hon. Mr. Alexander: We are ready to answer questions at any time, Mr. Chairman. You tell us and I will start answering questions. Luckily we have had an opportunity of jumping in every now and again--and I guess I have been guilty of that--to try to clarify something, but--

Mr. Chairman: It has been helpful.

Hon. Mr. Alexander: --we are sitting here waiting to go through the several points that have been raised. I do not know when you want us to do that, but that is up to you.

Mr. Laughren: ??what you have got here.

Hon. Mr. Alexander: No. Here it is here, Floyd, all this stuff here.

Mr. Laughren: That does not deal with my questions.

Hon. Mr. Alexander: No. Yours are after his. Yours are down here, Mr. Laughren. We are right down to Sudbury and Falconbridge and their assessments.

Mr. McKessock: Did you finish dealing with Mr. Haggerty?

Hon. Mr. Alexander: I think we have. Mr. Haggerty expressed concern--he started off with--

Mr. Chairman: We are going to answer some of the questions until 4:30, and then we will be back tomorrow afternoon at two o'clock and we will continue.

Hon. Mr. Alexander: He expressed concern about the unfunded liability, and we had a pretty good discussion on that.

Then, number 2, concern was expressed regarding the appeal system, the delays and the decisions. I think I got involved a bit and Mr. Warrington got involved. I do not know whether it was answered completely.

Then you provided a letter from a well-known law firm--and I can remember this--whereby the chap was in possession of a legal certificate, which was subsequently withdrawn, because of what you said of the delays, and I said I would like to see the letter, and I think--

Mr. Haggerty: The chairman has covered that.

Hon. Mr. Alexander: Yes, and then concern about the direction that will be taken under Bill 101 to address the ?? report. I think we covered that because I said something about referring it to the ??standards panel, and that was answered by John McDonald.

Problems with rehabilitation, particularly for people with ethnic backgrounds, I think we answered that. That is all we have, and the answer was explained, the Human Rights Code and the aspect included in Bill 101.

I think those are Mr. Haggerty's concerns, and if I am wrong, you can save your concern for tomorrow because I want to hit Mr. Lupusella now; but I think we have answered yours.

Mr. Lupusella got involved with a question re investment, and the answer was given by Mr. Reilly, as I understand, and you also asked for a list of the investment portfolio. We have to get that for you.

Then you had some points about--

Mr. Lupusella: Also, can you add how much money there is on the second injury fund and if the money is invested or is kept for ongoing activities, how much money is contained?

Hon. Mr. Alexander: That will now be in the record. We did not have that before. Maybe it was in there before, but I do not think it was. You want some more information on the second injury and enhancement fund.

Then I think your next point was what more statistical data could be included in the annual report. I think we had a fairly free range on that, and I said I would look into it. You were more or less primarily interested in the pension aspect of it.

Then you had another point, concern about delays in--that was covered earlier by Mr. ??

Mr. Lupusella: I understand what was covered in relation to the issue per se, but keep in mind that the same issue was raised last year and several years ago, and this problem is still a problem for injured workers, so it is not just a question of complying with the request of the concern raised before this committee. I am talking on my behalf. I do not think that concrete action has been taken down there to eliminate the problem of delays, so it is not just a matter of giving us an answer to the issue. The issue was raised last year, 1981, and if you go back at least for nine years since I was first elected in this Legislature, I heard the issue of delays taking place.

Hon. Mr Alexander: Mr. Lupusella, I think I am the first one to say yes, there are delays, but on the other hand, the first one to say that Mr. Tom Warrington had tried his best to answer. We know there are delays in the appeal adjudication division. I think that Mr. Warrington indicated to you--and perhaps I can help you again--that at this time, understanding that there are delays, I understand...

1625 follows



(Hon. Mr. Alexander)

...now there are delays in the appeals adjudication division. Mr. Warrington indicated to you--perhaps I can help you again--at this time, understanding there are delays, understanding that we have 16 appeals ??adjudicator--understand that with the new review services coming in, we are going to have eight more, which will give us 28 hearing officers. That will be 24--the equivalent of hearing officers. In the meantime, we said we hoped we would have the backlog absorbed by July 1. It has been suggested that we have senior review specialists looking at applications to see whether entitlement can be extended without a hearing. That is one thing we are doing now.

Mr. Warrington also indicated that we are meeting at eight in the morning and 3:00 p.m. in Toronto to try and absorb this backlog. We are also considering if the quantum of clinical ??PD awards can go directly to the appeal board if there is no objection. Some people would like two kicks at the can, by going to the appeals adjudicator and then on to the appeal board. We have said that what we are looking at is to try to bypass that first one, if there is no objection with respect to the policy we would like to follow through. We have also indicated that we are trying to arrange more trips to be scheduled for out of town. Last--some emphasis should be placed on this--we are trying to prioritize hearings that involve financial hardship.

In answer to your concern, I hope you accept some of what I have said as being a step in the right direction in reducing other delays--understanding that in due course we will have 24 review officers who are similar to the appeals adjudicator. You also wanted to know something about paying workers directly for prescriptions. He understands there is an improvement but wants real action. I do not know what else we can add to that. We had a discussion--

Mr. Lupusella: It was about clothing allowance.

Hon. Mr. Alexander: That is further along.

Mr. Lupusella: Who raised the issue about clothing--

Hon. Mr. Alexander: Clothing allowance issue--gave example delays in dealing with matter--

Mr. Lupusella: Yes.

Hon. Mr. Alexander: Unfortunately, Dr. ??Mitchell is not here because--he would like to be here, but he is not. That question will be answered--how we approach the question of prosthesis, clothing allowance, etc.

Mr. Lupusella: Again, it was raised last year. I do not want to be repetitive, but Dr. ??Mitchell last year gave us assurance that you will review the process and that something would be done to speed up the process of--

Hon. Mr. Alexander: I have a feeling that something has been done.

Mr. Lupusella: I did not see any form drafted; he did not give me any indication something would be done. This is one year later.

Hon. Mr. Alexander: We have not really addressed this question. It was brought to our attention on the 31st day. We could not give any answer then because you wanted to continue. I have no fault with that.

Mr. Lupusella: No. I do not want to continue. But the medical prescriptions which you made reference to--

Hon. Mr. Alexander: We do not have that answer, but Dr. ??Mitchell is not here.

Mr. Lupusella: I think the whole department is in a mess. To prepare the prescriptions--it is an easy process. It is not a complicated situation that has to be referred from one department to another. Last year I referred to the same issue that maybe a doctor should be placed there in that particular branch to review the medical prescriptions and to make sure payments would go out as soon as possible.

With the present system you have a structure such that from the medical aid branch you have to send the file, the file has to be requested and reviewed. They have to review the issue. Then you send the file to a doctor to review the prescriptions, and then the file goes back to the medical aid again, with the doctor's opinion that payment should be made or not--there is too much bureaucracy there. Place a doctor there to review the medical prescriptions. If they are in order, send out the cheques. I do not need this--

Hon. Mr. Alexander: I know your concern. Mr. John McDonald has a great amount of expertise in this area. We will have Dr. ??Mitchell here tomorrow.

Mr. McDonald: You suggest having a doctor there. There are already at least three doctors there.

Mr. Lupusella: It is worse then.

Mr. McDonald: Do you want the doctors out?

4:30 p.m.

Mr. Chairman: Let us take this opportunity to break. Dr. ??Mitchell will be here tomorrow.--

(R1630 follows)



(Mr. Lupusella)

-- to review the medical prescriptions. If they are in order send out the cheque.

Hon. Mr. Alexander: In the meantime Mr. Lupusella, I think I know your concern. Mr. John McDonald has a great amount of expertise in this area. We will have Dr. Mitchell here tomorrow.

Mr. McDonald: There are already at least three doctors there Mr. Lupusella.

Mr. Lupusella: It is worse then. It is terrible.

Mr. Chairman: Do you want the doctors out? I will take this opportunity to break. Dr. Mitchell will be here tomorrow. If you have specific questions for them, he is the expertise in that field and that will be the time to discuss it.

Hon. Mr. Alexander: Dr. Mitchell will be at the hospital tomorrow if we go and then of course it will not be that kind of questioning.

Mr. Chairman: We will break now and at 2 o'clock we will get back into that at that point and answer as many of the questions from that point on as we can.

Those who wish to attend the hospital will meet tomorrow morning at 9 o'clock at the front door.

The committee adjourned at 4:30 p.m.



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(Printed as R-53)

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STANDING COMMITTEE ON RESOURCES DEVELOPMENT
ANNUAL REPORT, WORKERS' COMPENSATION BOARD, 1983
WEDNESDAY, FEBRUARY 13, 1985
Draft transcript



STANDING COMMITTEE ON RESOURCES DEVELOPMENT

CHAIRMAN: Barlow, W. W. (Cambridge PC)
VICE-CHAIRMAN: Villeneuve, N. (Stormont, Dundas and Glengarry PC)
Havrot, E. M. (Timiskaming PC)
Lane, J. G. (Algoma-Manitoulin PC)
Laughren, F. (Nickel Belt NDP)
Lupusella, A. (Dovercourt NDP)
McKessock, R. (Grey L)
McNeil, R. K. (Elgin PC)
Reed, J. A. (Halton-Burlington L)
Riddell, J. K. (Huron-Middlesex L)
Watson, A. N. (Chatham-Kent PC)
Yakabuski, P. J. (Renfrew South PC)

Substitutions:

Haggerty, R. (Erie L) for Mr. Reed
Kolyn, A. (Lakeshore PC) for Mr. Villeneuve
MacQuarrie, R. W. (Carleton East PC) for Mr. McNeil
McCaffrey, R. B. (Armourdale PC) for Mr. Havrot
Sloat, A. (Wentworth North PC) for Mr. Watson

Also taking part:

Mancini, R. (Essex South L)

Clerk: Arnott, D.

From the Workers' Compensation Board:

Alexander, Hon. L. M., Chairman
Cain, D., Associate Secretary
Darnbrough, A. J., Executive Director, Vocational Rehabilitation
Division
McDonald, J. F., Executive Director, Claims Services Division
Mitchell, Dr. R. I., Executive Director, Medical Services Division

LEGISLATIVE ASSEMBLY OF ONTARIO
STANDING COMMITTEE ON RESOURCES DEVELOPMENT

Wednesday, February 13, 1985

The committee met at 2:10 p.m. in committee room 1.

ANNUAL REPORT, WORKERS' COMPENSATION BOARD, 1983

Mr. Chairman: We should proceed with this last half day of our review of the 1983 annual report of the Workers' Compensation Board. Before we begin, Mr. Mancini.

Mr. Mancini: I was just wondering how we were going to proceed in view of our visit to the hospital this morning. I was wondering if you were going to block some time off this afternoon. If we are, when are we going to block it off, to discuss the rehabilitation hospital? I am sure all members must have some comments or further questions that they would like to make, so I would ask the committee to--

Mr. Laughren: Not me. Mr. Alexander answered all my questions on the drive.

Hon. Mr. Alexander: We had a very open, frank and friendly conversation, and it had nothing to do with this place and--

Mr. Chairman: Who paid for lunch?

Hon. Mr. Alexander: We both went our separate ways, but I got him home safely. That is the important thing.

Mr. Lane: Mr. Chairman, I would suggest that we take a few minutes right now and talk about this morning's experience and then go on with our regular business.

Mr. Chairman: I do not think we should spend anything more than about an hour on the rehabilitation hospital.

Mr. Lupusella: No, Mr. Chairman. I have my problems with this recommendation. Number one, I had the floor. Number two, I did not get all of the replies that I was supposed to get, and there is some business that has been left uncompleted. I do not mind having the floor back, and whatever is left over to deal with the rehabilitation hospital of the board. I do not think we should give priority at this time. We should wait until later on to discuss this issue after we finalize the business of this committee which is still not complete.

Mr. Haggerty: Surely rehabilitation is part of the business of workers' compensation, perhaps one of the major links there is here, in getting persons back to work. I think that it should have some debate. I did not attend the meeting at the rehabilitation centre this morning. I have been there on different occasions in the past. I do not think we should cut off debate on it. I am not satisfied with all the answers to my questions that I put forward to the minister either, but that is the process that we encounter here. If I am not satisfied with the answers, I have got next year, or I have got the legislation that I can go after the Minister of Labour (Mr. Ramsay) with, and perhaps I may get some results that way.

If we continue this way and say I am not satisfied with the answers, I think my answers are on record. I am sure that I can make use of those answers and hopefully we can continue here with going into, "I am not satisfied with the answers," and hear the same old story again where we repeat ourselves so many times, as politicians do. I suggest if you got 15 or 20 minutes here, there may be some other questions. I think the chairman mentioned to me that they met with the injured workers' consultant at the board up there, and maybe there may be some information there that members have discussed some of the issues with and maybe something that should be cleared at this particular time.

Mr. Riddell: I find it somewhat ironical that Mr. Lupusella would want to stifle debate on the operations of the rehab hospital when his own colleague Floyd Laughren raised some real concerns about the rehab program. Furthermore, let us not forget that we have given most of the time in this committee to Mr. Lupusella. We have been very kind, and we have sat here and we have listened to him with all his rhetoric, going back in Hansard years and years ago. We have heard it all before.

If he was not interested enough to go out and see the rehab centre, that is his problem. The rest of us went out there to...

1415 follows



(Mr. Riddell)

~~we have sat here and we have listened to him with all his rhetoric, going back in Hansard years ago, we have heard it all before. Surely, if he was not interested enough to come out and see the rehabilitation centre, that is his problem. The rest of us want up to see it and now I feel we have every right to discuss the concerns we heard out of the rehab centre. I would suggest we go ahead and do that.~~

Mr. Lupusella: On a point of privilege.

Mr. Chairman: A point of privilege.

Mr. Lupusella: First of all, I would like to correct the record. The reason why I did not go to the rehabilitation hospital of the board was not because of a lack of interest; I had visited the centre four times in the past. I know the programs. In fact, I got into a questioning process about the rehabilitation hospital of the board in last year's debate with Dr. Mitchell, and I was the only one who raised the issue of the problems up there. So, I know what the problems are and I know the kinds of treatments people are receiving there. With the greatest of respect, it was not for lack of interest.

Second, I am not rejecting the proposition that the issue should not be debated. The fact is, Mr. Chairman, you have to use your power, as a chairman, to make sure that I will gain the right of the board, because yesterday I had the floor and I want my floor back before we deal with this issue. It is as simple as that.

Mr. Chairman: Certainly.

Mr. Lane: Why do you not take the floor and leave?

Mr. Chairman: He is correct. When we recessed last night, you and Mr. Alexander were discussing this.

Mr. Lupusella: Yes.

Mr. Chairman: Mr. Alexander was in the process of answering your questions. It was not a matter of you having the floor; Mr. Alexander was answering the question.

Hon. Mr. Alexander: I had the floor.

Mr. Lupusella: Okay. We had the floor.

Mr. Chairman: It seems to me that the majority of the members of the committee would like to have the opportunity to discuss the rehabilitation program. I think it is proper that we continue to do that and block off a certain amount of time. We could run from now until three o'clock or 3:15, whatever the committee feels, on the rehabilitation program at the hospital and then--

Mr. Laughren: I was on Mr. Mancini's side until Mr. Riddell intervened.

Mr. Chairman: I heard a suggestion, as opposed to a motion, that we discuss the rehabilitation hospital. We had a visit to the rehabilitation hospital this morning. Can we discuss that now? Those in favour of that suggestion?

Mr. Laughren: What?

Mr. Chairman: That we discuss now the rehabilitation hospital.

Mr. Laughren: Is that the question?

Mr. Chairman: Yes. That is the question. Those opposed to discussing it now?

Mr. Lupusella: Mr. Chairman, I used to have a great respect for the proceeding of this committee because of your presence, but now I have to change my mind.

Mr. Chairman: I see. Sure. I know.

All right. We will discuss this morning's business until three o'clock. Is that fair enough?

Hon. Mr. Alexander: Mr. Chairman, if I may intervene for just a moment. I just want to register, on behalf of all my colleagues at the board, the fact that we appreciate the several members who were able to go out to the Downsview Rehabilitation Centre. I really do not know what they found. They had the opportunity of talking with people. They had an opportunity of sitting in camera, if you will, with the hospital patient reps so they could disclose a lot of good things and a lot of bad things. But overall, all of us--and I say that with regard to even the MPPs and, as well, my colleagues--found it to be a very informative, interesting and a very fruitful morning. At this time, we have Dr. Bob Mitchell--who is the executive director of medical services, who was at the hospital incidentally--and we welcome him--here with a number of his officials. Therefore, sir, whatever happens from now in--I do not know how you propose to do it. But Dr. Mitchell, perhaps you would like to open it up. You did give some indication of what we did out there. Perhaps you would like to repeat it by way of about a five minute introduction with respect to what we are attempting to do out there, which will lead them in and then from there on. Somebody suggested perhaps questions and concerns that were raised by the MPPs could be brought to our attention at this time.

Mr. McKessock: Mr. Chairman, I do not why my colleague, Jack Riddell, is eating peanuts because we were very well fed up there.

Mr. Riddell: I did not have any dessert.

Hon. Mr. Alexander: I should never ask a question without knowing the answer, but I will take that chance. What did you think of the meal?

Mr. Riddell: It was very good.

Mr. McKessock: Very good.

Hon. Mr. Alexander: Thank you very much.

Mr. Riddell: We are going to send the cook from here up there.

Mr. Chairman: Dr. Mitchell, would you like to just ??
a few minutes?

2:20 p.m.

Dr. Mitchell: For the members who were not there, I should just repeat a very quick overview of how a patient is admitted to Downsview, and this is one of two ways. One, the referring physician, the family physician or the attending surgeon, makes a recommendation that, in his view, the patient would be benefitted by ??spending time in the rehabilitation--

R-1420 follows



(Dr. Mitchell)

now a patient is admitted to Downsview, and this is one of two ways. One, the referring physician, the family physician or the attending surgeon, makes a recommendation that, in his view, the patient would be benefitted by ??spending time in the rehabilitation centre, or in our monitoring from head office of the treatment we feel it has reached a stationary stage where we feel it is particularly important of getting that patient in where facilities might not exist in the remaining part of the province.

Once they are admitted, they are seen by one of our 25 physicians on the staff there. The recommendation is made about treatment. They are reviewed again by the various paramedical group, the physiotherapist, the occupational therapist, the remedial gymnast and the recreational therapist, and modifications of the treatment plan are proposed to at ??two meetings. The patient's progress is observed, it is fine tuned, according to how they perform and, finally, a disposition is agreed upon by the team members.

I think it is very important to recognize that this is a team of professionals; it is not one doctor who is making the decision. It is an honest attempt. It is obviously not always the correct answer, but it is the best that we can do with a group of professionals we have. I think that was the lead statement.

Hon. Mr. Alexander: If I may, I think in order to assist my friend, Mr. Lupusella, really you are not talking about medical rehabilitation--if I can use that expression. In order to assist Mr. Lupusella with one of his questions, which is an ongoing, seven part question with respect to vocational rehabilitation, so perhaps after we finish the hospital, if the committee so desires, we will move from the medical rehabilitation to the vocational rehabilitation, because there were several concerns raised not only by Mr. Lupusella, but by others, as well, including Mr. Floyd Laughren. Perhaps, if that sequence is acceptable, sir, I think it would be an excellent way to go.

Mr. Chairman: That is fine. It sounds fine to me.

First of all, Mr. Mancini--and I would ask the members to please bear in mind the time and remind them not to take an awful lot of ?? I have said that before you ??

Mr. Mancini: We will leave it up to your judgement, Mr. Chairman, to keep track of the time.

First of all, let me say that I am glad the committee had the opportunity to go to Downsview and to visit the hospital. There were some of us how had not had the opportunity before and I am glad we went as a group. I think it is more effective to go as a group because we learn from each other and there seems to be more goodwill built up in travelling the way we did this morning on all sides of the issues that come forward.

(Mr. Mancini)

I would just like to specifically bring up some of the concerns that were brought to us, and to myself on an individual basis, from different patients and from the patients' representatives who were there and with whom we had the opportunity to meet.

Before I start there, I would like to say that my own experience is I found that people are either fairly satisfied with the process there, or they are completely dissatisfied with the process. It seems to be hard to find anything in between. My colleague, Mr. Riddell, had mentioned to me that he had talked to a construction worker with a bad back and had questioned him on his particular problems and/or views on the hospital. The answer was, "Everything seems to be fine, but I really do not think they are doing anything for me here." That is, I think, an overall view of the hospital that I have.

I am really not too sure of what kind of rehabilitation takes place and I am not sure of the definition you are using for rehabilitation. We know that the average stay there is 19 days and I am not sure how much rehabilitation can be done. I personally believe that most people are there for assessment as to the extent of their injury, therefore the board will then have an opportunity to either cut off benefits if they wish, or continue to extend full temporary disability benefits, or assess the person with some type of pension. So my view of the board's hospital is less rehabilitation and more emphasis on assessment. That is just a general statement which I would like to have on the record.

We talked with different individuals and with the patients' representatives. They brought up the subject of the bathing suits and they were quite concerned that everyone had to wear the bathing suits which were provided by the hospital. They were quite concerned--

R-1525 follows

They brought up the subject of the bathing suits and they were quite concerned that everyone had to wear the bathing suits that were provided by the hospital. They were quite concerned about the spreading of any type of bacterial or viral diseases by everyone sharing these bathing suits and they are wondering why it is not allowable for someone to bring in their own bathing suits.

As far as I am concerned, I would not want to go into a situation such as the hospital at Downsview and have to wear a bathing suit that has been used by possibly 10 other people before I get to use it. I would be much more comfortable and very willing to be informed, first, "You may bring your own" or, second, "We will supply you with one." I just want to ask the doctor whether there would be any problems in doing that, in offering that option to the patients there.

Dr. Mitchell: If I might reply to that whole statement, you have been very perceptive in your summation there and I would have to agree with most of the statements you have made there. Certainly in the past the rehabilitation centre has done more assessment than it has rehabilitation. This is because the interval between the time of injury and the time they are admitted to Downsview has been so long, 1.4 years on the average patient, that we have not been able to do rehabilitation. At that time, a year and a half after your injury, it is very difficult to have an impact upon an injury. Your perception of this is absolutely correct.

We have felt uncomfortable with that for a long time and when we had the Peat Marwick survey a year ago, this was expressed to them. They put in their report that admission prior to six months following an injury would be a more acceptable time frame than 1.4 years. This year, December 1984, we commenced to initiate that program where we are attempting to admit patients within six months of their injury.

Mr. McKessock: You said the average now is 1.4 years?

Dr. Mitchell: It was in the past, yes, 1.4 years. We are moving that time frame forward to try to admit patients within six months of their injury for the very fact that you have mentioned: if you get them within six months, you have the opportunity to have an impact on rehabilitation, rather than just assessment.

What is rehabilitation? It is really, as I explained this morning, a process whereby the patient, the injured worker, has to enter into a stage by his own activity, having suffered an injury, been operated on or not and has recovered to a point where he is now preparing himself to return to normal living, to move again where he has been injured, to get back to daily living, to be able to return to work.

It is an active process and many of those who come do not recognize that we are not doing it for them and that they have to do it themselves. We provide them with physiotherapy. We provide them with occupational therapy. We provide them with gym exercises

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is
(Dr. Mitchell)

to tone up muscles that have been falling into disuse. We are trying to emphasize physical fitness and we also have, as you know, a recreation program which, again, tries to get them involved.

We, like you, are amazed sometimes that these two groups exist: those who write complimentary letters saying, "This is the best place we have ever been to," and those who write, "This is a terrible place." We have had letters that said, "The food is awful," and yet we have had an independent view today that it is very good, and that is our view. Obviously, you cannot please them all, but we do try.

Mr. Mancini: I am sorry to interrupt, but just getting back on the point as to what people actually perceive before they go in and then what happens after, why is not, for example, for everybody who goes in today there is some type of arrangement where all the people who are admitted today can go to the auditorium and have a counsellor there or someone there to say, "Now, look, we are not miracle workers here and we are really not going to rehabilitate you here. We are going to try to assess the degree of your injury here." So that after the person gets there, on the first day, the person knows exactly why they are there.

I met people today and I have constituents to whom I have talked in the past who actually believe, for one reason or another, that they are going there to get better. In many cases, as we discussed just in the last five or 10 minutes, that is not so. I think a lot of those problems could be resolved if we had some kind of orientation as to why you are here.

2:30 p.m.

Dr. Mitchell: We do have such a program and, to the best of my knowledge, it is still running. I want to make sure, but I have seen it and I have seen--

R-1430 follows

(Dr. Mitchell)

I would have to telephone to make sure, but I have seen it and I have seen the slide presentation--it is a slide presentation--which shows pictures and is in our orientation program.

I would stress again that we are moving into that time frame where rehabilitation would be emphasized, as opposed to assessment. What you have said was in the past. We are changing the program. We feel confident that perhaps by the end of this year we will be able to say that we were primarily doing assessments; we are moving to a more active phase.

Mr. McKessock: Just to go along with what Mr. Mancini was saying, someone had mentioned, which confused them, they were saying they were pushed to the point that it seemed to be doing them more damage than good. They could not quite understand that. If this was a reassessment so that you could determine the extent of their injury, that would be a little more understandable, but they were figuring, "We are trying to be rehabilitated and yet we are going at it maybe too hard from the start. Instead of building up, we have been overpushed."

Dr. Mitchell: That is a problem that patients in general suffer. Certainly in the field of surgery you see all ranges. You see the person that you operated on, the next day they are sitting up beside the bed and reading a paper. Some of them are lying back there, "Do not touch me; I am too sore." I do not know if you have ever had any fractures, but certainly you have to get a joint moving and it can be a very painful process. I guess it is a matter of balance and perception that some of them think they are being pushed too hard and trying too much. There is always a variation between individual patients.

These therapists are people who are trained. They come to us from good hospitals. We have people who leave, for example, Toronto Western Hospital, Toronto General Hospital, Wellesley Hospital. They come there for jobs, so that they are well trained. We cannot supervise every action of every patient, but I would feel that most of those people know what they are doing, know the limits within which they should stay and we just have to have confidence. If there is a complaint, we will investigate it to make sure that there is not an individual who is being pushed harder than they should be in these situations.

Mr. Mancini: What about the bathing suits?

Dr. Mitchell: Those bathing suits are laundered after each occasion. They are collected when they are finished with them and they are laundered and represented.

I was trying to think why they would not allow individual bathing suits. I suspect it is because of the different types and styles. They might feel it is unsuitable in some of those mixed classes, I do not know. I will certainly look into it and get an answer. No one is using a bathing suit, I do not believe, that has been used by anyone before.

Mr. McKessock: I think you are right that some of them would rather wear red bathing suits than blue.

Interjections.

Mr. Mancini: There was some interest and some comment expressed about the sinks. Some individuals felt that they were too low for the wheelchair patients and for people with back problems. They felt that the bending was really something that they probably should not have to go through. Is there a problem with that?

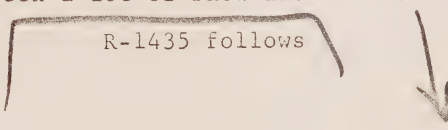
Dr. Mancini: It is a problem unless we have a sink that moves up and down. We get all types of people, all sizes, but sinks are fairly standard in hospitals. The plumbers tell us what is the most convenient level and it is used. Drinking fountains and sinks were the two things they complained about on the meeting of January 22. We got the minutes of that. Our staff did investigate that and felt there was very little they could do which was reasonable to suit all types and all people with injuries.

Interjections.

Mr. Mancini: I talked to a person from Windsor there and he was telling me that when he was being admitted he did not realize it until he almost slipped and fell that there were not proper rugs to collect snow or water as it was being walked into the building. Is there a problem with that?

Dr. Mitchell: I do not think there is a problem with the building. I think it is a problem with the weather we have been having. There has been a lot of snow and slush.

R-1435 follows



Dr. Mitchell: I do not think there is a problem with the building. I think it is a problem with the weather we have been having. There has been a lot of snow and slush.

I say this quite impartially as having worked in many hospitals in my life, the floor cleaning there and the services are really excellent.

Mr. Mancini: I did not want to say that the floor cleaning services were not good but I was wondering what would be the big deal about not having a rug here. If it stops a person from slipping and falling, it seems to be such a minor thing but it could cause such a big problem.

Dr. Mitchell: I would suspect that when people enter from outside that rug would be pretty useless, on a day such as we had yesterday, in a short time. I would be glad to look into it.

Interjection.

Dr. Mitchell: I think it is a vinyl floor.

Mr. Haggerty: There should have some type of mat that you could get because if you get water there, you can really go for a spin.

Dr. Mitchell: We certainly do not want any more injuries, do we.

Mr. Haggerty: I have had complaints from injured workers in my area. In fact one of them fell because of the weather conditions, particular in the winter months. Maybe a suggestion is that if you get clients in there of that nature, they are not sure on their feet, perhaps they should not be let out under those circumstances, unless there is a pickup at the door for a car or something like that where they do not have to get out and walk 10 or 15 feet or something to get a taxi. Perhaps on a day like yesterday, they should put a sign up there that nobody leaves the premises.

Dr. Mitchell: About 30 per cent of our patients for ambulatory care. They come in on a daily basis. So we have to have them coming in and out. They do not stay in overnight.

Mr. Mancini: Another big area that I would like to touch on which I think is very important is that the patients, that I spoke to anyway, did not feel that they were told enough about their particular injuries or physical problems after they had been seen by the doctor at the board.

I guess when you come in the procedure is you get a full physical and then you are told--or you are supposed to be told--what that particular doctor views as your problem, even though the person's family doctor may have already said: "We think this is your problem" or a specialist back home may have concurred. I think it is very, very important for the board doctors to immediately pass on to the patient that, "Yes, I agree with your family doctor and specialist back home" or "I am not sure. We think it might be something else" or "I do not know."

The patients found it very troubling to actually be at the hospital, have the physical done and then being sent to classes to do exercises or what have you and still not really believing 100 per cent as to what actually is their physical problem. I was wondering if you receive that complaint on a regular basis and if it is a policy of the board at the hospital to ensure that each patient is told by each and every doctor, "Yes, we believe this is your problem."

Dr. Mithchell: I think you are absolutely right. That should be done and believe that is being done. We do not get criticism on a regular basis of that but I will certainly reinforce it. It is a basic requirement. You get a patient in, tell him what the problem is and what you are going to do. It is common courtesy.

Mr. Mancini: We found that prevalent today. I was surprised.

Dr. Mitchell: That is very interesting. I am surprised too.

Mr. Riddell: Does the initial examination differ with patients? Some of the patients received a thorough physical when they came in, other patients said they received very little.

Dr. Mitchell: It depends on the injury I would think. A patient who has been well documented and seen by a number of specialists and has a lot of documentation, the admitting physician may elect only to examine the affected part--a hand or knee. Those who have not had detailed examination in the past might well have a complete thorough examination from head to toe.

Mr. Laughren: Remo is right. The big complaint was not being given a diagnosis of the problem.

Dr. Mitchell: Sure. I was answering a separate question. No, I would not disagree. It is actually fundamental in my view and is part of what we try to teach and be sure happens.

Mr. Mancini: I guess you are going to speak to the staff to make sure that is re-emphasized.

Dr. Mitchell: Yes, I have made a note of it.

2:40 p.m.

Mr. Mancini: There are several other small points I wanted to raise but I do not want to steal the time from the other members. I want to raise a point that has been brought up a particular constituent of mine who is there now. I spoke to her for about 20 minutes today privately and she felt very dissatisfied and almost in tears as to her particular treatment at the hospital.

R1440 follows

(Mr. Mancini)

I spoke to her for about 20 minutes privately. She felt very unsatisfied and was almost in tears as to her particular treatment at the hospital. She felt she really was not in any way being assisted. She mentioned several different points that I would like to either have a chance to speak to you personally with it, or speak to Mr. Alexander to have a meeting with her because I think this constituent should be helped out. I guess it is too late now. She is going to be discharged in another week or so. Maybe what I should do is prepare a very lengthy letter and point out each particular concern she had.

Dr. Mitchell: I would be very happy to talk to you, or I am sure the chairman would.

Mr. Mancini: She told me, and I do not know how prevalent this is, that she would probably complain more, but she felt it might hurt her reassessment. I was wondering how we could encourage people to speak out without them feeling any fear. Is that possible?

Dr. Mitchell: I think those patient representatives that you met are elected by each group there. They only stay there on the average for three weeks so the patient representatives change. They are not permanent positions. We certainly encourage the meeting and we take quite seriously the recommendations that come out of those. These meetings are every Monday evening. On the Tuesday morning, the liaison counsellor prepares a list of which I have a couple of examples here, points are made, they are distributed to the relevant people and an attempt is made to answer them.

Mr. McKessock: There was one complaint by the representatives of the patient committee where things are turned over to the workers' compensation people, and then they would come back with the response, "The matter was discussed," but they did not get the results of the discussions. That was one thing. They wanted more than just the fact it was discussed. They wanted to know the results.

Mr. Chairman: A good example of that was on sink business, the low sinks. The matter was discussed. They probably never had a satisfactory answer.

Mr. McKessock: There was one other, getting back to the swimming area where they talked about a small outbreak of athlete's foot--three or four people in there have it--they thought there should be a foot bath before they go into the swimming area. Is that contemplated and also how much chlorine is in the water?

Dr. Mitchell: It is monitored very closely. We get bacterial counts on a weekly basis. Everything is done. The recognition of the possibility of spreading infection is well looked into.

Mr. McKessock: What do you mean by a weekly basis? It would be checked more often than that, would it not?

Dr. Mitchell: A bacterial count--and that is where an actual sample of the water is sent for a culture for bacteria--is done on a weekly basis. There is no point in doing it more often because it is ??pointless

Mr. McKessock: But your chlorine tests would go on day by day?

Dr. Mitchell: The chlorine content is checked several times a day.

Mr. McKessock: Is there going to be a foot bath put in before they go into the water?

Dr. Mitchell: I would like to look at the implications of that and respond to that subsequently. I really do not know. Up until now, we have not had a problem with serious infections. Athlete's foot, as you know, is not necessarily contagious. It comes from not drying between the feet. It is a fungal infection. It is not like a bacterial one, which is very contagious. If people go into the pool and do not dry properly and then get into wet socks, this can develop in this way. It is not what we would call a really infectious problem. Certainly, if it is perceived as such, we have to look into it and see what we can do.

Mr. McKessock: A foot bath would be fairly simple and it should be fairly effective too.

Dr. Mitchell: A foot bath is simple. I do not believe it would necessarily be effective, with due respect.

Mr. McKessock: Why?

Mr. Haggerty: They use it in public--

Dr. Mitchell: In a lot of places, they use a lot of things that are perceived to make a few people feel better. Probably the best thing is a type of ??desiccating ??powder.

Mr. Haggerty: In many cases in the region, and I believe it is under the department of health or the medical officer of health, in any place there is a public swimming pool, you must have that there.

Dr. Mitchell: With a shower.

Mr. Laughren: You are suggesting it is a foot placebo, are you?

Dr. Mitchell: Thank you, Mr. Laughren.

Mr. Lane: I would like to make a few remarks. Most of what we observed this morning has already been talked about. I would like to thank Mr. Mancini for suggesting we make this trip. It was his idea and it was very worth while. The fact we did go in

~~SECRET~~

R-1445-1 follows



...Thank Mr. Mancini for suggesting we make this trip. It was his idea. It was very worthwhile. We all got more out of it by going as a group. We learned as a group and exchanged ideas and listened to the same type of complaint, and so forth.

I was pleased to find it such a clean, cheerful, comfortable place. None of us want to be restrained to a hospital and any kind of institution, but if one has to be, it is about as good as we could expect. We all found the food was good. No complaints there.

We had some complaints from the patients' representative. One would be a better liaison with that group in getting back to them about their complaints. They talked about having 60 people at their meeting last Monday night. A fair bit of interest was shown. They seemed to feel that while somebody tells somebody but nobody does anything about it. I agree with the doctor--the group could not agree about what to think. One thought they were too low and another thought they were too high. Getting back and saying "This is why we cannot have it this way," is one way of resolving it.

The spokesperson for that patients' representative group indicated his family doctor had told him what his problem was. He had suggested there was no point in his going to Downsview. He wanted to go. He got a complete medical examination when he got there. They told him the same thing, that they could not do much for him, other than surgery, which they did not recommend, nor did his doctor. But he was there, and they were trying to help him. I do not think he was saying they were not helping him. He was spokesperson for the group. If the doctors there agreed with his family doctor, there was not much more he could expect. He was saying that to us.

I talked to one patient in the workshop who felt they worked too long at one process before they had another check from the doctor. She was having a bad morning. The pain was excessive this morning. I had a feeling maybe they were being observed even though they were not having individual examinations as often as she thought.

On average, I got as many compliments as complaints about the place. I was certainly impressed with the gentleman we met before we left who had both legs amputated who was taking a view of life most of us do not take. He was saying how lucky he was to--the words he used were: "When you have a mishap like I had, the Workers' Compensation Board is your mother and father. It tries to do everything it can for you."--

Interjection: Oh, my God!

Mr. Lane: I think those were the very words he used. He has had a partial assessment. He will be getting a final assessment. I wish some of us who have not suffered the kind of agony and suffering he has would have the same attitude toward life that he has.

(Mr. Lane)

I thought it was a good exercise. I am glad we went. There will always be some things that could be improved. Nothing is perfect. I was rather impressed with the whole operation.

Mr. Laughren: Very briefly, I think Mr. Mancini covered most of the points that the patient representatives mentioned to us. I was amazed at how many of my constituents I met there. I will have to come here and campaign. When the election is called, I will knocking at the door of the WCB rehab centre.

2:50 p.m.

~~Virtually everybody I talked to was there with a back problem. Not everybody, but almost.~~

(R1450 follows)

Mr. Laughren: ~~When the election is called I will be knocking at the door of the WCB rehab centre.~~ Pretty near everybody I talked to with there had back problems. I am surprised it is not more than 20 per cent. I think he said it was 43 per cent or something.

Dr. Mitchell: I think I said 60 per cent.

Mr. McKessock: We heard two different figures, 60 and 40.

Dr. Mitchell: I can tell you now that there are 93 per cent of patients in Downsview have back problems, but that is not the incidents.

Mr. Laughren: So what is the number?

Dr. Mitchell: In the past for those patients coming in at 1.4 years after their injury, the ratio for backs was 60 per cent of the total. If you look at claims earlier on, it is 25 per cent. As time passes, it goes up to 40 per cent. When we got them in Downsview it was 60 per cent and today it is 93 per cent and that is because of the special program we have started.

Mr. Laughren: What I think is confusing is, I do not know if this introduction at Downsview rehab centre says that approximately 45 per cent of injured workers are admitted to the centre due to back disabilities. That is why they are admitted in the first place.

Hon. Mr. Alexander: Don't leave that yet because I would like to know which figure I should use doctor. I am always referring to it. With 12,000 admissions and I have been saying 50 per cent. I do not mean to be light about this, but I use certain statistical information and the one I use now in terms of back disabilities is 60 per cent.

Mr. Laughren: He is wrong on all counts.

Dr. Mitchell: I am sorry if I confused you, but it depends entirely on the stage or the time after their injury when they are admitted to Downsview because the other injuries tend to go back and get back to work and normal living, so their proportion drops. As the months go by after the injury, the proportion of backs increases. It starts at a low figure and then as time passes if you look at three months, it is probably close to 40 per cent. If you look at a year it is 60 per cent.

Mr. Laughren: There is a big turnover in there. At any one point can you not say how many people in that place are there because of back problems?

Dr. Mitchell: Yes we can.

Mr. Laughren: What is that number?

Dr. Mitchell: Today it is 93 per cent.

Mr. Laughren: No kidding. That is amazing because someone there asked me today as a matter of fact if I had heard the rumour that the board was going to deal only with back problems and everything else was going to be done in Hamilton. I am serious. I thought that chairman is just telling John Smith again.

Dr. Mitchell: I thought all the ?? were going to Hamilton.

Hon. Mr. Alexander: I did not put my stamp of approval on that, nor has it been brought to my attention.

Mr. Laughren: That is what is professed to be happening. Another thing is what is the early back care project? Is there such a thing?

Dr. Mitchell: Yes sir.

Mr. Laughren: What is that?

Dr. Mitchell: It is called the early back project which was a pilot study to see whether by admitting people earlier at any earlier time following their injury we could improve results. We did a six month study on that. It was based on the work done in British Columbia where a back program was instituted and they had very significant, improved results by getting people closer to the time of their injury.

We instituted that on a six-month basis. I must say our preliminary results were very impressive. Because of that, we decided to institute this new program I was alluding to earlier, whereby we were trying to have all patients admitted to Downsview within six months of their injury. Why we have such a large proportion of backs is because we started with the back patients. Phase two may be other injuries.

Mr. Laughren: I see. That is why you have 93 some per cent of back problems.


Dr. Mitchell: That is right.

Mr. Laughren: I am glad you are experimenting with the whole back problem because nothing is as aggravating. It must drive the board bananas as well. As soon as someone comes into my office and sings out with a problem, my first question is whether it is their back. Invariably it is. It is really difficult.

Hon. Mr. Alexander: We have a number of people at the board and I do not want to single myself out personally but I have a back problem. John McDonald just had an injection. Al McDonald had a back problem and Tom Warrington.

Mr. Laughren: They are all on light duty.

(1455 follows)



Hon. Mr. Alexander: You score on that. I will not argue that point. But we are very apprised of the concern that people have about backs. A lot of us have suffered from some sort of back disability.

Mr. Chairman: Mr. Haggerty is next.

Mr. Haggerty: Mr. Chairman, I was looking at the interface of the Workmen's Compensation Board in Ontario medical review of January 1985. It says: "New arrangements for the admission to Downsview rehabilitation centre from Robert I. Mitchell." And boy if we got any more titles there. Do you have any more titles?

Dr. Mitchell: Yes I do sir.

Mr. Haggerty: Well qualified I guess it is. One is executive director.

Mr. McKessock: What does your wife call you?

Dr. Mitchell: I answer to anything at home except--

Mr. Haggerty: I was looking at the changes that are coming about and have been discussed just now about bringing the injured worker in sooner for rehabilitation assessment. Perhaps that is where the problem has been before. Sometimes it is two or three years before they finally get to the board.

I was concerned about the comments in here that you would be getting them in after 90 days. Are you not going to have an overload and maybe a waiting list from the doctors to whom you have sent out the information to, if you get people to the rehabilitation centre sooner? Will there be a problem? What are your answers to overloading if there is a long waiting period to get in? I think of cases now where the waiting period is three months.

Dr. Mitchell: When you start any new program you have to plan it ahead of time and see what the numbers look like being and initiate it and see what happens. We actually identify the patients at 90 days. We identify those that have passed the 90 days. The reason we selected that time is our experience has shown that 88 per cent of workers return to work within 90 days. We were looking at the 12 per cent who did not and we did not want to take on too much. We selected that time frame of 90 days and we thought we would then assess from that file what the current situation is and we will try to make a judgement from the reports we have whether that patient would be helped by coming into Downsview. That is done at head office. If it is thought they would benefit then their name is put on the list and they are admitted.

We have a computer on this. Our first print out was about 1,000 names.

Mr. Haggerty: Computers make mistakes too you know.

Dr. Mitchell: Oh I know. We do not depend on it entirely. It is just as a check. Obviously at this time we have a tremendous number of patients on the waiting list and our waiting time is longer, but we are gaining on that and that will drop down into a very short time and when it does that we will then introduce what we call phase 2 in that article where we will bring in problems other than that.

Yes, there is a waiting time now because there is a big number. It is diminishing and we will be going to phase 2 about the middle of April.

Mr. Haggerty: It has been brought to my attention to that a number of injured persons particularly those with back injuries may be off for a couple of months and then they are put back into the work force. Sometimes on talking with the injured workers they feel they are put back too soon in relation to what their normal job or profession was in the industry. They complain they are put back to work at the same job they sustained their injury from. I guess my question is how many of those are repeats that go back into the industry that should have been given lighter jobs in the industry instead of going back to their old job say to using a sledge hammer when their back muscles might not be toned up as they should be. It could cause them more problem. You do have a number of repeats in this area do you not?

Dr. Mitchell: We certainly do.

Mr. Haggerty: What is the solution to reduce that? Is the message given back to the industry that they should use some caution with regard to that injured worker? Let him develop, get back in the groove again, tone up his back muscles gradually?

3:00 p.m.

Dr. Mitchell: I would like to say that we do have a program at Downsview where we try and ensure that the patient is ready to go back to a specific job. In actual fact, have had occupational therapists, rotational rehabilitation counsellors, visiting the workplace place to try and make sure that the injured worker can go back to a specific job.

R-1500-1 follows



(Dr. Mitchell)

...In actual fact we have occupational therapists and rotational rehabilitation counsellors visiting the work place, to try to make sure that the ??injury can go back to a specific job. We get it detailed.

You must recognize that some of those people who are sent back we have never seen at Downsview. It may be a decision by their family doctor or their specialist, "You are ready to go back," so we will take responsibility for the ones that we see.

Mr. Haggerty: I am like Mr. Laughren. I had an injured worker come into my constituency office just a week ago. He came in walking with a cane. I looked, and I asked, "Workers' compensation?" and he said, "Yes." He said, "I just got back from the rehabilitation centre." I read the report that said he could go back. It was a knee injury. It said, "You can go back to your original job with no restrictions on your employment." His family physician said, "No way should you go back there." In fact, I think he advised me that the doctor said, "You had better get some aid to assist you in getting around right now," because he was limping and everything else, so he went out and got a cane. That is a problem where the MPs or the injured workers' compensation work will get into the picture and say, "Why was he sent back too soon?" I do not have to tell you about back problems, and I think knee problems are just as tough to correct.

Dr. Mitchell: Yes.

Mr. Haggerty: I think of a friend of mine who had an operation not too long ago. He had two, in fact. The first one he had at St. Joseph's here in Toronto, a serious operation on the knee, and they put him under. He came back, and to get movement again they had to put him under again and force it. I think the pin slipped out and he had to go back a year later for further surgery. By this time they had developed a little machine there, and it is like a hydraulic ram or work done on the ?? but right after the surgery that knee was in motion. He never had any pain. I mean there are some advancements in this particular area.

Looking at the overlead and that, have you considered, instead of bringing my family to Toronto, maybe 100 or 200 miles to the rehabilitation centre here in Toronto--I think of the ??Shaver Hospital Rehabilitation Centre in St. Catharines. That is an excellent rehabilitation centre working with persons who have lost limbs and the physiotherapy that goes along with it. They do an excellent job. They have a pool there for back problems, trying to get persons back to work.

Would it not be more reasonable to let that person go there for that type of rehabilitation instead of bringing him over here to Downsview, away from the family? I think half of the therapy is being tied in with the family, looking to see the children. That fact would remove some of the stress. Have you considered that

(Mr. Haggerty)

where they do have the facilities? I am sure they would have them up in the larger centres in northern Ontario. They probably have a good rehabilitation centre in one of the hospitals in Sudbury, Sault Ste. Marie or Thunder Bay, instead of bringing them away down to Toronto.

Dr. Mitchell: We certainly do look at that. As a matter of fact, yesterday we had a visit at Downsview from the people in Ottawa, from the Royal Ottawa Rehabilitation Centre, talking about this very thing.

I think it is fair to say that a lot of patients who are treated before they come to Downsview go into such centres as you have mentioned, but still have not progressed. Those centres have a wide range. They deal with--

Mr. Haggerty: That is coming back to Mr. Mancini's comment that the only reason they are at workers' compensation is for assessment rating.

Dr. Mitchell: No. You will find, interestingly enough, that they have been to those centres on a daily basis and number of hours they have had of physiotherapy has been quite minimal. I was about to say that it is because they have so many other programs going on. They have stroke victims, they have arthritic people there, they have perhaps paraplegics in the case of Ottawa, so that their treatment staff have a tremendous range of diseases to deal with and often cases those diseases such as the strokes of the paraplegics take precedence over someone with a back or a knee injury. As a result, the amount of time given for actual treatment is lower than we have been able to give at Downsview. By getting them physically there 24 hours a day, having them there, we can give a more intensive program.

We are not opposed, and we do see the tremendous advantage of being treated in the local area, but unless those centres can deliver a program that we feel is as effective as ours, then we would not recommend it.

Our job, and I see it as a challenge, is to try and...

1505 follows



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(Dr. Mitchell)

Our job, and I see it as a challenge, is to try and encourage those centres to develop units that could deal with the problems.

Mr. Chairman: Can we move on? We have three other people who would like to ask questions. Mrs. Sloat, did you have your hand up?

Mrs. Sloat: Mr. Chairman, I just wanted to say, as a new member of the committee, I enjoyed the hospital tour very much this morning. I found it cleaner than most hospitals that I am used to.

I rather felt that the spokesperson for the patient liaison group really felt if you came to Downsview you would be cured. This is a hope in his heart, and I think that was the reason for his disappointment. I think with that problem attitude seems to be the key to the whole thing because any rehabilitation takes a great deal of time.

Perhaps the key to the whole thing is that maybe some emphasis could be put on adapting the patient to the fact that he is going to have a chronic back problem for the rest of his or her life, and it is not a pleasant thing to really have, but I think some emphasis should be put on that: "You are going to have this chronic back problem for the rest of your life. How are you going to deal with it?" I think this is the problem, but I am certainly impressed with what is going on.

One point I wanted to make about the foot baths and the pool, I do not think they are in operation in most new pools at the present time because at most of them the local health department does take swabs for any kind of bacterial or fungal infection, so they are not usually put into new swimming pools now. They were in use in older pools, but they do not seem to have been terribly effective in controlling any kind of disease at all.

I was pleased to be with the group this morning, Mr. Chairman.

Mr. Chairman: Thank you, Mrs. Sloat. We were pleased to have you along with us.

Mr. Riddell: I think Dr. Mitchell partially answered my question regarding the changes which he sees at the centre to give the patients more rehabilitation and less of the assessment that my colleague referred to. As I understand it, you are going to try to get these patients much earlier after their injury, and you are going to give them more individual treatment?

The reason I ask that is that one of the complaints we heard today was that there is far too much group therapy, and we actually heard one chap say that one of the patients who was in on

(Mr. Riddell)

this group therapy program actually cracked his fusion. He was in there doing exercises that he should not have been doing, but they treat them as a group with maybe a back injury, therefore, "These are the exercises you are going to do," where they feel that they should perhaps be given a little more individual attention based on their specific injuries and not expect a guy with a back fusion to have to raise his legs way over his head or something to that extent. Is this more individual type treatment one of the changes you see?

Dr. Mitchell: The example you have given is a very good example of how we would not want to see things develop, that is quite right, but there is some great advantage in group therapy. You feel one of the number. You have people with the same injury that you are competing against, and it has a very positive action sometimes. It encourages people to try a little harder and work together, but obviously we do not want to have someone with a serious problem. That should never have happened, but people always have a different perception what caused that fusion to fracture, and before I would accept that the exercise did it, I would like to have a look at it. The patient probably perceives it a such.

That is one of our problems, that patients do have a different perception. They come there to be cured, and we do not cure them, and they are terribly disappointed; therefore, we are doing a bad job. We are very frank. We do not cure everybody. We cannot.

3:10 p.m.

Mr. Riddell: I also wonder if this educational course that is given to the patients--I understood ??Anne Marie to say that they come in one day and they learn about the anatomy, and they come in the next day and they learn what part of the anatomy is being affected with certain injuries and things like this. Would it not be far better to give these patients that...

1510 follows



...they come in one day and learn about the anatomy. The next day they learn what part of the anatomy is being affected by certain injuries, etc. Would it not be far better to give these patients that kind of course when they first come in so that when they go through their treatment programs, they would have some idea they are being asked to do certain things, such as strengthening the muscles in a certain part of the body, rather than giving them the course at the completion of their stay at the hospital?

Dr. Mitchell: My understanding was that until we had this large number of patients there, which we currently do, it was given at the first half of the admission. The problem is that when you come in you are seen by a physician; you have certain tests, and you are seen by the occupational therapist and a physio-therapist. There is very time to fit all these things in. The program you are talking about is a back education program. You could rephrase it "Living with your Back." We try to get in in the first half because, as you say, it makes much more sense, but we are competing with a lot of other things. It is hard to get it in.

Mr. Lupusella: I would like to get into this debate as a revenge. I would like to spend a few minutes on the issue of rehabilitation. With great respect for Mr. Riddell, this issue was raised last year. There was not a single comment from the Liberal Party. This process should be clear spelled out at this time.

Mr. Riddell: You are the guys who send the Hansards home. I do not, so you keep talking.

Mr. Lupusella: I raised the issue. I know what I raised. I got my answers.

Mr. Riddell: I do not need the Hansards to get re-elected. Maybe you do.

Mr. Lupusella: Nor do I. In fact, I gave an assurance to the chairman of the board that I never send out copies of speeches given in the Legislature.

Hon. Mr. Alexander: I did.

Mr. Lupusella: I am doing that for the benefit of injured workers. I think what I am doing is part of my duty as a critic on behalf of the New Democratic Party, and the injured not having the opportunity to sit on this committee, it is our duty as politicians to do just that.

About the rehabilitation hospital, by reading this opening statement about statistical data, when the program started in 1932, how many people had been admitted to the centre and so on, and considering that in the past injured workers were complaining about some sort of physiotherapy or exercises which eventually aggravated their existing physical conditions caused by the accident, I would like to know if there is any way to find out how many people aggravated their physical conditions as a result of

(Mr. Lupusella)


exercercises or physiotherapy which they went through at the hospital and whether their claims have been reopened. Do you have any statistical data which gives us an indication that people, as a result of accidents caused by the treatment they got at the hospital, were forced to seek more medical attention because of accidents which happened, such as the one raised by Mr. Riddell, the rupture of a disc which had been fused.

Dr. Mitchell: We do keep records of what we call incident reports. If someone complains he has hurt himself and has more pain after a treatment, then it is reported. It is listed in statistics. I do not currently have them with me. They are listed, and I can get them. This is a very small number.

Second, the physiotherapist would want me to say there are very few cases where physiotherapy makes things worse. I do not know about you, but if you have been busy in the Legislature and then one day go out and shovel the snow, you may get a painful back. It is very true about these patients who have had operations, perhaps, and their muscles are weak. When they get into a course at physiotherapy, they will feel muscle discomfort and some joint discomfort as a result of it. That is not necessarily a conflict.

Mr. Lupusella: No, no. I understand the difference--

(R1515 follows)



~~... understand the difference.~~ Aggravation of symptoms--the pain is understandable if it is a result of physiotherapeutical treatment. I am talking about cases in which injured workers' conditions were aggravated as a result of certain exercises they were not supposed to do. Again, I would like to reiterate the typical case which has been raised by Mr. Riddell.

Dr. Mitchell: Take the example of the fusion that snaps. We have seen many of those where the patient is doing well, and without anything will suddenly develop more pain. An X-ray is taken maybe two weeks later and it is seen the bony fusion has cracked. There is no way you can isolate when that happened. You are doing well, then there is pain, and an X-ray maybe a week or two later demonstrates the crack. If this happened to coincide with the time you are having physiotherapy, it is a very natural conclusion by the patient that the physiotherapy did it, but it may have happened some weeks or months prior to that. It was just the extra movement that started to highlight the pain. That is one of the problems in treating individuals. Circumstances sometimes draw you to the wrong conclusion. The profession of physiotherapy is very aware of the problems. They take great interest in knowing what has been done before so that they do not twist a knee that has had a ??manisectomy or treat a back that has had that.

Mr. Lupusella: If I may diverge a little from the topic of physiotherapy which is a regular routine, we understand that generally speaking people admitted to the hospital, they go prior to the time when the board will assess the permanent disability pension, and they go there for any assessment of their physical capabilities as a result of medical reports which have been sent to the board. They were given an indication that the disability is permanent.

Of course, the other aspect is that maybe some injured workers do not require physiotherapy or exercises but the reason they are admitted is to find out the extend of their capabilities in case they are released and they are supposed to look for light jobs. I did not visit the hospital, as Mr. Riddell did, but in the past I saw certain programs of people doing some type of modified work within the hospital which indicated to the experts to find out that is the kind of light job which he or she can do, and the board would have the first indication of what kind of rehabilitation the injured has to receive when the file is referred to ??

As a result of this work assessment--that is the right definition--are people getting injured? Do you have any statistical data which would give us an opportunity to find out how many injured workers have had their conditions aggravated as a result of the work assessment given to them?

Dr. Mitchell: Yes, we would have figures. I do not think we have separated them. We could get that information. We would have a record of anyone who was injured in a specific area. With some difficulty, we could do it.

Mr. Lupusella: I would like to look at this topic, but going back to previous criticisms raised by injured workers over the past, it appears you have the people there, hiding just to find out, and to follow the injured worker, to find out if he is lying about his physical conditions, the so-called "spies." Is that true? Are you denying this allegation? In the past, there were spies going among injured workers to find out if they were lying about their physical conditions, to see if their complaints were genuine.

3:20 p.m.

Mr. Riddell: Some of the greatest spies are the patients themselves. I talked to a patient today who was prepared to show me ~~the phoney~~ that

(R1520 follows)



(Mr. Lupusella) ~~genuine one.~~

Mr. Riddell: ~~if I might just interject, I think some of the greatest spies are the patients themselves, because I talked to a patient today who was prepared to almost show me as he called it, the phoney's out there.~~

Interjection.

Mr. Riddell: He said I just do not understand.

Mr. Lupusella: He say he got ?? and I was not there.

Hon. Mr. Alexander: I am glad I did not say that.

Mr. Chairman: It would be better to answer Mr. Lupusella's question than comment on Mr. Riddell's.

Dr. Mitchell: I can categorically deny that we have ever employed spies nor are there any there, but that does not mean we are not interested in the truth.

Mr. Lupusella: He answered the question.

Actually, you are not even denying the allegation that the rehabilitation hospital was like a concentration camp?

Dr. Mitchell: Sorry, I missed that.

Mr. Lupusella: Injured workers, in the past, used to say that the rehabilitation hospital was like a concentration camp.

Dr. Mitchell: Yes, we have seen those letters. We have seen it referred to as the barracks, but I really am very proud that there are a group of very highly-trained professionals working there to the best of their ability. They are not all perfect, none of us are, but we do have an expert for everybody out there.

Mr. Riddell: Mr. Lupusella should have been with us this morning.

Mr. Lupusella: I know. I am sorry.

Mr. Riddell: I did not observe that at all.

Interjections.

Mr. Lupusella: Do you want me to go on in this topic?

Mr. Chairman: As long as Mr. Alexander wants to respond to your questions. You can carry on in the other theme if you wish. It is up to you. You have almost an hour and 15 minutes.

When we left yesterday afternoon, you were--

Hon. Mr. Alexander: At the opening, I had a point to help Mr. Lupusella and others, we discussed vocational rehabilitation to some extent and because I would like that particular matter addressed. Mr. Laughren read a portion of the Industrial Accident Victims Group of Ontario brief, the first part dealing with rehabilitation and Mr. Lupusella had a seven-part question, I believe. I know Mr. Darnbrough was here for all of this. I do not know how you would like to start. Mr. Darnbrough, I guess you heard the statement made by the IAVGO group, and as well, the seven or eight points that Mr. Lupusella made. Are you in a position to answer those concerns at this time?

Mr. Darnbrough: May I start by saying how much I appreciate what has obviously been a rewarding experience for those of you who visited the rehabilitation centre at Downsview this morning. It seems apparent that there is a much better understanding now of the relationship and the difference between medical rehabilitation and vocational rehabilitation, and perhaps a more concrete understanding of just how important it is that the injured person and the rehabilitation counsellor have a very clear and consistent understanding of the level of disability and the nature of the abilities so that they can have a realistic course planned for returning that person to employment.

It will be my privilege to talk about vocational rehabilitation and that is the board's exercise of assisting people to return to suitable employment. It was encouraging, as Mr. Lupusella opened his remarks the other day, to notice that he had given recognition to rehabilitation counsellors in the past year. His comment pertained to the fact that he had perceived a change in the attitude of some counselling people and that he thought this was a constructive and positive change.

The role of the counsellor is an important one and it is also important to understand just what it is that a vocational counsellor is capable of doing with regard to rehabilitation as opposed to what a medical practitioner is capable of doing.

There are some statistical questions that Mr. Lupusella has proposed and I would like to try to address some of these. The first question of the seven put to us related to the number of people who had been rehabilitated as part of the board's vocational rehabilitation program in the past three years. The statistics, while contained...

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(Mr. Darnbrough)

~~...seven put to us related to the number of people who had been rehabilitated as part of the board's vocational rehabilitation program in the past three years. The statistics contained in the 1983 report that you have provided only one year's perspective, I will quote the three years together, 1982, 1983 and 1984, and that may help you to centre on that.~~

The rehabilitative category in 1982 was 3,482. In 1983, that increased to 3,981, an increase of 14 per cent, and in 1984, it increased again to 4,410 for a further increase of 10 per cent. We were particularly pleased with this outcome. It is the first time we have managed to exceed the 4,000 in the rehabilitated category and obviously, it is the highest number of persons rehabilitated through the assistance of the board in the history of the vocational rehabilitation division.

Just a broader perspective, when you consider that in a course of a year--and we deal with annual statistics because this is an annual report--of approximately 144,000 are disabled from work as a result of their injury, in the neighbourhood of 7,500 to 8,000 actually end up coming to the vocational rehabilitation division for assistance, it becomes apparent that a great many people are able to return to work after their injuries, having received income maintenance payments in the form of workers' compensation and having received medical care and payments as they recovered from the injury. Many people, by far the vast majority, return to work with only the first two facets of workers' compensation being applied.

The next statistic that Mr. Lupusella was concerned about was the 1984 figure on how many of these people returned to the accident employer, either to their original job or to more suitable work with the accident employer, and how many returned to new positions. The figures for 1984 were, individuals going back to the accident employer totalled 1,293, going back to to a new employer 2,162 and becoming self-employed, 259.

The next question asked of me, of these people who had returned to employment, did I have information about their earning rates in their new occupations and some indication of the occupational field they returned to. The question was related to, did they return to skilled employment if they left skilled employment or to something very close to their pre-accident work. I am sorry the answer is that this information is not regularly captured in our program. I explained last March when we were here that we are in the progress of developing a rather large data base on an entirely new system that will make use of a computer and will automatically capture these kinds of data for analysis in the future.

(Mr. Darnbrough)3:30 p.m.

However, there is some information that may be of help in answering this question. First, of the new job opportunities we were able to locate for rehabilitated injured workers, the starting salary rate at the present time is \$6.50 per hour, \$260 per week or \$13,500 per year. Some of the information we have comes from a rather small, manually conducted survey which I am a little reluctant to offer up as conclusive evidence because I do not consider it as such, but it actually came out of another study that we had. In any event, for what it is worth, the average salary of people who returned to the accident employer was in the neighbourhood of \$19,000 per year. The point to be taken here is that our first course of...

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(Mr. Darnbrough)

... Mr. Lupusella, the average salary of people who return to the accident employer was in the neighbourhood of \$19,000 per year.

The point to be taken here is that our first course of action in vocational rehabilitation is to try and take the person back to work with the accident employer to protect whatever seniority is there, the pension plan that is there, and to take advantage as best we can of the skills that the individual has. You can see, clearly, there is the economic advantage of doing that as well.

The other point that I think needs to be made at this stage is that when an individual returns to work, and there is a significant wage loss than the difference between the preaccident and postaccident earnings, there is a section of the act that deals with supplements on a wage-loss basis. This can, in fact, bring the person's income level back up to the full compensation rate. That is temporary and, hopefully, as the person progresses in the new occupation and gains experience, the income for the work is increased, or other opportunities for advancement take place that, in turn, increases the salary level to the point where the supplement is no longer necessary. In other words, it is to the point where the person has reached the accident level and, perhaps, exceeded it.

Mr. Lupusella: I have a supplementary on the wage loss. I would like to get a clear answer. I know that the wage loss exists as long as the individual is losing money because of the accident. Why did you mention the word "temporary?" Why is the wage loss temporary? Is it temporary until the individual will reach the same amount as he used to with the former implemented 75 per cent of the loss considering the amount of the pension which it is calculated on? On that basis is it defined as a temporary or is the wage loss given as long as the loss is existing?

Mr. Darnbrough: I guess the first thing you said is why I was attempting to clarify it. It is a temporary situation, hopefully, in that the person's income will increase or possibly exceed the level that existed before the accident so the supplement will take care of that until that happens.

Mr. Lupusella: So that is why you used the definition "temporary?"

Mr. Darnbrough: Yes, it is.

The average length of rehabilitation services was the next question that you raised.

Mr. Lupusella: I am sorry.

Mr. Darnbrough: The average length of rehabilitation services?

Mr. Lupusella: Right.

Mr. Darnbrough: I am to tell you that the average length of service is now at 12 months from the time that a case arrives in the vocational rehabilitation division until the case is closed. That has increase somewhat to almost seven weeks on average in the past three years, changing slightly in a downward trend towards the end of 1984. But clearly, during the recessionary period we were having more difficulty in securing employment for people and, consequently, the average length of service increased to 12 months.

Mr. Lupusella: Again, I have a few questions to clarify the statement which you made. When you are using the average length of rehabilitation rates to 12 months are you incorporating the injured workers that received rehabilitation assessment, plus a training course which used to be the length of three months, before four months, and then being renewed to eight months based on the performance of the injured worker? I still do not understand the trained work of 12 months. What is it? Is it a follow-up?

Mr. Darnbrough: It is the average figure of all cases so it includes both people who have gone through assessments for training programs and those who have gone directly to employment. Obviously, some of our cases turn over very quickly, and that will affect the average. Others require one or two, in some rare cases, three terms at community college or university level. That cannot be done in less than two or three years. So that will affect the average. The overall average is what I gave you in giving you the 12-month figure.

Mr. Lupusella: So you are including also the follow-up process of the person who is under the implementation for the duration of the 12 months on top of the kind of injured workers that you just mentioned who are going to colleges, and so on.

Mr. Darnbrough: Yes, I am. You have another question about follow-up which I will come to. It is included in that.

Mr. Lupusella: Again, you are not dealing with--

(Tape R-1535 follows)



(Mr. Lupusella)

...kind of injured workers that you just mentioned who are going to colleges, and so on.

Mr. Darnbrough: Yes, I am. You have another question about follow-up which I will come to. It is included in that.

Mr. Lupusella: Again, you are not dealing with the issues of supplement pensions at this state. It is strictly related to rehabilitation.

Mr. Darnbrough: The average length of time. It is from the time the individual comes to us until the time that the case is closed by us.

Mr. Lupusella: If I can make a few statements on that issue. I understand that rehabilitation and pension assessment and pension supplement are completely different which fall under your own jurisdiction when you deal with supplement pensions. But indirectly the supplement pension is strictly related to the rehabilitation process of the injured worker. Am I correct? So, in other words, based on the performance of the injured worker, the board has the discretionary power as to whether or not a supplement pension must be granted. Can I assume that?

Mr. Darnbrough: Yes.

Mr. Lupusella: I think that is the case. I think that last year I suggested that the two departments should work together to speed up the process of the supplement pension. I am not sure that work has been done between the performance of your department with the supplement pension department in order that there will be a speeded-up process for injured workers that are co-operating with your department. If they are unable for different reasons, for finding a job or are unable to get training courses, the other branch, which is the pensions department, gets into the picture and the supplement pension should be considered immediately.

Mr. Darnbrough: This was a very interesting observation of yours last year. I would like to reassure you that some very concrete measures have been taken to make sure that that happens.

We have, for instance, a series of lectures established throughout last year, where the pension adjudication people and the administrator of pensions addressed vocational rehabilitation counsellors so that there was a clear understanding from the pensions adjudicators perspective of the relationship between vocational rehabilitation counselling and the responsibilities that the pension people have for processing the special supplement awards. Very clearly that took place.

From the vocational rehabilitation perspective, we introduced a training program for claims adjudication personnel. Almost 100 people were involved in that program from the

(Mr. Darnbrough)

adjudication perspective. So very clearly I can assure you that some measures were taken to tighten the relationship between those two to see that the information flowed is good, solid and, therefore, that those cases where there had to be a supplement that the supplement actually takes place quickly. I think you observed in your opening remarks that you had seen an improvement in that area.

Mr. Lupusella: Yes, I did notice some improvement, but if I can use a statement from the chairman, there is always room for improvement.

Hon. Mr. Alexander: Sir, you will not be happy until we reach the state of perfection. We are trying our best.

Mr. Lupusella: I mean to protect myself so I do not think you will find a human being who is perfect.

Hon. Mr. Alexander: I understand what you are saying.

Mr. Lupusella: The reason why I am raising this issue is to make sure that injured workers will not be left out and let them go through a lengthy process until the injured worker will get an answer from the board as to whether or not the supplement pension should be granted. I think that should be incorporated within the rehabilitation and pension departments so that this issue can be dealt with immediately when an injured worker is seeking rehabilitation or help.

3:40 p.m.

Until the process of an assessment, a training course, or a light job comes into the picture. There is a waiting period, as you know, for the assessment to be sent to an assessment centre. It usually takes one or two months. Maybe they do not have opening spots available for injured workers then their assessment at the end of six weeks will take place. I would like to make sure that the liaison process will be reinforced within those two branches so that the injured worker who comes to your department, at least the pension department, will get the message that this man is co-operating, he is looking for a light job and--

(Tape R-1540 follows)



(Mr. Lupusella)

within those two branches of injured workers come to your department, at least the pension department will get the message that this man is co-operating, he is looking for a light job and gave us ??assurance that he is trying to do his best, and consider the issue of a supplement pension immediately. So, the injured worker is not supposed to fight or go through the appeal system to get the decision as to whether or not he is entitled to the supplement pension issue. I want this approach to work well and to be reinforced.

I know that they are giving me the assurance that there is a screening process taking place between the pension department and the rehabilitation department, but I believe the liaison should be strengthened to ensure that injured workers will get the full benefit without any delay.

Hon. Mr. Alexander: You point is well taken, sir, well put.

Mr. Darnbrough: I appreciate your comments. Mr. McDonald and I obviously concur with you. The staff in both divisions are working on that.

I think your next question related to assessments and to training programs. I would like to give you those statistics, if I may. First, for assessments in 1983, the total was 3,302, and for training programs, the number was 2,400. In 1984, assessments increased by 16 per cent to 3,837 and training programs increased by some 10 per cent to 2,654.

I think you expressed an interest, as well, in--

Mr. Lupusella: What was the total number of people applying for the service? I do not have the total.

Mr. Darnbrough: There is not an application that is made for assessments or for training. That is a decision which is made collectively between the injured worker and the rehabilitation counsellor.

Mr. Lupusella: I see.

Mr. Darnbrough: They discuss it and decide that is the proper approach to take and we arrange it.

I think you were interested in knowing something about academic upgrading, and perhaps these numbers will be of interest to you. In 1984, the number in academic upgrading was 619. The business and clerical courses that people became involved in numbered 207, and post secondary education numbered 309.

The question was raised, as well, about the definition of financial self-sufficiency as it relates to closing a case as a rehabilitated case. As you noted, some 696 of the rehabilitated or what we consider successful closures in 1984, that is, of the total of 4,410, 696 were closed under this category. That is actually a decrease in percentage from the year before.

(Mr. Darnbrough)

But I did want to just take a second to explain that these cases represent those individuals who have decided that continuing to work is not the answer. These people will not be returning to work, and I think each of us has met people who fall into this category, people who perhaps have had the previous disabilities or conditions, whether they are covered under the Department of Veterans Affairs or whether they are nonconventional conditions, heart conditions, or circulatory problems, or whatever which, in combination with the industrial injury, bring the individual at least to the conclusion that they really do not want to return to the work force.

What we see as our obligation in those cases is to make sure that we do everything possible to help that person reach a level of financial self-sufficiency, that is, they have maximized their income and that their debts and expenditures are being addressed and are being met on a monthly basis by their income. Some of these people, of course, have other incomes than their workers' compensation. They may have Canada pension plan benefits, may have DVA and may have private insurance programs, or some rental income, or some other form of income that they have accumulated over their lifetime which brings them to the conclusion that it is just not worthwhile going back to work any longer. They are included in this group, as well. I expect some of those about whom we spoke yesterday, the older worker, whose equivalent to the old age supplement is provided...

R-1545 follows

(Mr. Darnbrough)

...brings them to the conclusion that it is just not worth while going back to work any longer. There are included in this group as well I expect some of those we spoke about yesterday--the older worker who is equivalent to old age supplement is provided through the board as well.

I hope that answers your question. This is not the ultimate in successful vocational rehabilitation with regard to putting someone to work. That is what we would really like to do, but it is, what we consider our duty and our obligation when we are dealing with people who will not be returning to work and who have decided that is the course for them.

Mr. Lupusella: Are you including the financial self-sufficiency people the number of successful closure of the files, the 696 figure? Or is that a completely different identity?

Mr. Darnbrough: When I gave you the number of rehabilitated persons at 4,410, it includes 696 under this financial self-sufficiency category.

Mr. Lupusella: We are talking about 696 which reach the financial self-sufficiency stability.

Mr. Darnbrough: That is right.

Mr. Lupusella: Before you get into other answers, I remember last year I was complaining about the approach used by rehabilitation counsellors that they were leading to applications for Canada pension plan, family benefits, welfare, etc. instead of dealing with the issue of rehabilitation per se. My criticism last year was that this approach was greatly used by a rehabilitation counsellor to provide some way of income to injured workers so they would not bother the rehabilitation department for any further assistance.

What kind of qualification do rehabilitation counsellors have in relation to the issue of rehabilitation of injured workers? I notice some change of mood and approach of injured workers which leads me to the conclusion that maybe you are hiring more social workers within your department. Maybe that is why the mood and the approach is completely different from the previous rehabilitation counsellors who were very aggressive, completely concerned about finding a job for them and nothing else. I notice a change of attitude. I am trying to justify in my own mind why this change of attitude has taken place. Are you hiring more social workers within your department?

Mr. Darnbrough: I do not think the blend of educational background has changed to any great degree in the last five years. We are hiring essentially the same people that we did. We have seen some improvements in the type of courses that are being provided at the university and community college level and these are the people we are taking. We are finding that people come to us from other agencies who have had some experience with dealing with the placement, re-employment of persons with disabilities, but I cannot say to you that it is because we are hiring social workers. I mentioned last March that we have had an intensified training program for field rehabilitation counsellors to the extent that may have helped towards the attitude you are speaking about, but I do not want to mislead you.

Mr. Lupusella: I was just curious.

Mr. Darnbrough: The objective and the goal is return to employment.

Mr. Lupusella: Right.

Mr. Darnbrough: I will not back off on that. That is the approach we take with our counselling people. When you set out to discuss something with someone, it should be very clear that I am here because you and I are going to find a place for you in the employment market, and the other niceties will take place. That is fine. I am grateful to hear that you think that is being done.

Mr. Lupusella: It answers my concern because one of the objectives is to train injured workers and find job opportunities. I would not like to place more emphasis just on the change of attitude by giving less importance to the goal of rehabilitation, which is finding job opportunities on the behalf of injured workers. I was just trying to settle this issue within the scope of my mind and trying to find an answer to the issue of a change of attitude coming from rehabilitation counsellors--nothing else.

3:50 p.m.

Mr. Darnbrough: Some of it may have developed from...

R-1550-1 follows



...mind trying to find the answer to the issue of a change of attitude of the rehabilitation counsellors, nothing else.

Mr. Darnbrough: Some of it may have developed from a counselling model that was put together in our division in the past year and a half which was presented to all counselling people by Dick ??Miller, our divisional co-ordinator. He headed the team that developed the counselling model. That may well account for some of the change in attitude. It accept that it does. We have our own Mr. ??Miller in vocational rehabilitation now.

Mr. Lupusella: I decline to give some sort of compliment. I did not get any credit because of my criticism last year. We heard your criticism very carefully, and we have been trying to do something about it. I do not need any credit anyway.

Mr. Darnbrough: No. We want to say, on behalf of all my colleagues on the board, that we are very pleased that most of you, if not all, have given us credit where credit was due. We do appreciate it. I know that you know that we are not as bad as we are perceived to be.

Mr. Lupusella: I do not know that.

Mr. Darnbrough: Yes, you do. You were just complimenting me. As a matter of fact, Mr. Haggerty just distributed this. I do not want to eat up your time, but he had a point. "Heat imaging can provide evidence of pain." My information is that we are involved with this. If Dr. Mitchell would come up and advise as to what we are doing. Then I wanted Mr. McDonald to answer a question that Mr. Laughren asked about the adjudicators who are leaving the board, about 50, he said.

This matter was raised by Mr. Haggerty. It is by the Canadian Bar Association, which appeared in the May 5, 1984 issue and headlined "Heat imaging can provide evidence of pain." Are you aware of this?

Dr. Mitchell: Yes. This is thermography. We have been studying that for some time. I am trying to recall the month. It was probably August or September last year that we bought a thermography machine in Downsview. We have been using it to assess its value. It is a changing art. Thermography is used a lot in spy missions to detect heat. There are cameras available. The one we are using at the centre is a liquid crystal which changes colour with heat. We are using it as a pilot project to determine if it is of value. It would be premature to give any indication of its value. We are following it with interest. I was just talking about it today with one of my staff, the important of moving on with that. It looks very exciting, in our understanding and mapping of pain, but I would not want to give you an assurance that it will be so. We are familiar with it, and we have a machine.

Mr. Haggerty: I brought it to the attention of the committee because my colleague Mr. Riddell commented that somebody at the rehabilitation centre could not understand why that individual was there. There was nothing wrong with him. I thought that the Canadian Bar Association was using this as an attempt to screen our fraudulent claims. It may be something to ease the minds of many claimants that even at the board office, it may pinpoint that the pain is there. Often there are questions in the field and doctors sometimes say it is not as bad as one may consider it. I thought that could help in screening, and to show that there is injury.

I was interested in reading in the report a profile of Dr. Mitchell. If you have the time to go through that, he is perhaps one of the best qualified physicians at the rehabilitation centre. He has outstanding qualities and medical background--

Interjections.

Mr. Haggerty: When you get into the full report that has been presented to the committee in the introduction to the Downsview Rehabilitation Centre--I was delighted to see that stress is taken into consideration as part of the work injury related to the accident. Often we forget the psychological impact--

(R1555 follows)



.. was part of the work injury related to the accident. Often we forget about the psychological impact upon that individual. I have seen some changes in the claims decisions. They are now allowing this more so then ever before. This is a step in the right direction.

A matter that I felt was a concern to me was: "'Learn to handle stress,' doctor warns workers." He goes into the detail of the matter of persons employed in emergencies such as firefighters and policemen. The impact of stress on those two types of employees. It is an interesting article.

It goes on to say: "A brain was designed to lead out of fires not into them. We were not meant to deal with emergencies everyday. One of the first firefighters on the scene of the 1973 Cranbrook, British Columbia airport disaster had no problems immediately following the accident but seven months later he developed a drinking problem. His marriage broke up and he developed seizures and acute pancreas problems. One year later he lost his job. He was medically a wreck. It looked like his body parts were failing one at a time.

"A firefighter said, 'He was the first at the scene. Saw a man with his legs and lower torso blown apart and a child with no face.' Twenty-five people died ??and 43 people died that night." This is Dr. Fred Van Fleet.

What this guy was keeping in him was killing him. Fleet said, "Workers must learn to deal with stress because if we do not deal with emotions now, they will deal with us later." He suggested three methods for dealing with stress:

"Those who get tense and uptight should breath deeply and take breaths. Those who become angry and whose adrenalin starts to pump, should get rid of their energy by engaging in some physical activity. Those who become tired and depressed need social communications and exercise. Crisis workers have to learn to wind down on a daily basis," he said.

I often think of what many of the firefighters have to go through, particularly the policemen. I suppose this is one of the reasons they come to the decision that firefighters and police should retire at the age of 60 because of the stress. But it does pinpoint a problem that in today's working conditions, the stress now that is put on workers in industries and in white collar areas in many cases might be pretty pathetic.

That we are moving in that area, demanding from worker and the pressure that is put on, sometime very shortly in the near future the workers' compensation is going to have to take a close look at the word "stress" and perhaps consider that it is part of a working accident or part of the working industries. Perhaps compensation is going to have to be given in this particular area. There are many people out there who cannot cope with the industries demand today. The impact upon that person, many have never returned to employed.

[45-A Follows]

(Mr. Haggerty)

I suggest there should be more research done in this particular as related to stress-related jobs. We are going to have to come up with some answer for that in the area of compensation.

Hon. Mr. Alexander: Thank you very much, Mr. Haggerty. I do not want to cut you off.

I am sure the doctor appreciates the comments you have made with respect to thermography, which can work both ways I guess. I hope if and when it is found to be acceptable that the people will not scream at us. As it says:

"Subjective complaints of pain, numbness and paresthesia can be objectively documented with statistical accuracy in both acute and chronic state." It is a question of: This can help the injured worker or it will not. In other words, we will be able to determine who really has pain and who psychologically speaking may think he has pain but this thermographic machine will allow the board to weed them out. I hope people do not scream in the event that it does become a reality at the board. I have a feeling that there will be some screaming.

4:00 p.m.

With respect to stress, yes, your point is well taken. I know there is an ongoing process of education and study. I certainly appreciate the comments you have made with respect to the whole question of stress in the work place...

RI600 follows



(Hon. Mr. Alexander)

...your point is well taken there. I know there is an ongoing process of education and study. I certainly appreciate the comments that you have made with respect to the whole question of stress in the work place.

I wanted to get to Mr. Laughren because I think he had a point that concerns most of us on the board, and that is the point he had was is it true that 50 claims officers quit without jobs to go to. I think Mr. McDonald wanted to answer that question.

Mr. McDonald: Excluding probationary staff who within the first six months either decide to leave or we decide that they are not suited for the job of adjudicator, we lost 24 through resignation last year. Of that 24, six were female adjudicators who failed to return from maternity leave, so if you look at it that way, we lost 18. We also lost, through promotion to other jobs within the board, 22. So the total figure is 46, not far off your 50, but there were only 24 actual resignations.

Hon. Mr. Alexander: Thank you, Mr. McDonald.

Mr. Lupusella, would you like to continue with some of your questions?

Mr. Lupusella: Yes.

Hon. Mr. Alexander: Unless you feel that Mr. Darnbrough should continue with rehab. You had a number of questions.

Mr. Lupusella: Maybe Dr. Mitchell can appear before us.

Hon. Mr. Alexander: Dr. Mitchell, I think following through with Mr. Lupusella's concerns, he was talking about paying workers directly for prescriptions. Apparently there is a problem there and, as well, he thought there was a problem with respect to our approach to seeing to it that the clothing allowances which injured workers are due are given in a reasonable time. Have you any comments with respect to that, sir?

Dr. Mitchell: I remember in the opening statement a week ago Tuesday, I guess, that you mentioned the clothing allowance and our commitment to you to look at a new form which was given last year. We have indeed been working on a form and---

Mr. Lupusella: Finally. What is it?

Dr. Mitchell: I actually saw a draft of it, which I am sorry to say I do not have with me today, but one of the problems, as you may appreciate, there are two types of clothing allowance. One is for those who have an amputation and have an artificial limb and wear out that ??leg. That is a permanent allowance that is given and tied in with the regular monthly payment.

Mr. Lupusella: I never heard the complaints of people involved with this--

Dr. Mitchell: So that is one aspect of the story. The other aspect is braces for the back.

Mr. Lupusella: Yes. What do you call it, a Harris brace?

Dr. Mitchell: Harris brace.

Mr. Lupusella: Then the corset which is a piece of steel.

Dr. Mitchell: I might say the profession is very divided on the value of persisting with a brace. There are those who feel braces should not be worn, and they are bad because the muscles deteriorate and those who feel they are beneficial. Because we recognize that braces are not given forever, then the clothing allowance needs to be reviewed from time to time, and that is where your question comes.

We feel that it is important to review the need for that allowance and to send out a questionnaire.

Mr. Lupusella: Okay, but do you support the principle that the board should take the initiative of mailing out the questionnaire and from the questionnaire get an assessment as to whether or not the person has to wear the brace?

Dr. Mitchell: That is right.

Mr. Lupusella: So you do not have any objection to the principle of the form to be sent out?

Dr. Mitchell: No, sir. I think we should initiate it, as you say.

Mr. Lupusella: That is on a yearly basis.

Dr. Mitchell: Or as often as we think necessary.

Mr. Lupusella: Because people are applying for a clothing allowance every year.

Dr. Mitchell: Right.

Mr. Lupusella: At the end of 12 months, they have to reapply, and I want the board to take the initiative to send the standard form with all the questions, which will give you a hint as to whether or not the brace is really required to be worn.

Dr. Mitchell: We feel that the emphasis should be on the individual because so many workers stop wearing the brace on their own.

Mr. Lupusella: Yes.

Dr. Mitchell: We feel that those who find that they have to for help should initiative the response from the board. They should say: "I am still wearing my brace. Please, may I have this clothing allowance continued?" You are saying we should monitor it.

Mr. Lupusella: You should monitor it. send out the form, ask the questions that you are looking for, and from the general questions you get the assessment, and also based on the nature of the accident, you are going to get an assessment that really needs the brace.

Dr. Mitchell: I would have to say that on an annual basis that is asking a lot of our staff, and we feel it is best at this time to leave it to the worker to apply.

We were looking at a computerized follow-up that we could initiate by computer form. If that were possible, then...

1605 follows



(Dr. Mitchell)

~~we feel it is best at this time to leave it to the worker to apply.~~

~~Now, we were looking at a computerized perhaps followup that we could initiate by computer form. If that were possible, then it would become cost effective. In other words, we could print it out, send out a form and have it analyzed. If you would forgive me, I would have to disagree. I think if the worker wants the clothing allowance, he should take the time to ask us.~~

Mr. Lupusella: Do you foresee increased work for the people who are supposed to process the application of clothing allowance?

Dr. Mitchell: If we had to post everybody who was given a clothing allowance. Yes, if we had to initiate the action, it would be an increase.

Mr. Lupusella: But if you have your own computer--but the people already receiving the clothing allowance on a yearly basis and you have also the names and claim numbers of these people reapplying on a yearly basis, why do you not use the same approach of sending out the form?

Dr. Mitchell: As I say, at the present time it has to be done manually. If we were to do it by computer, it would be a cost-effective measure. Doing it manually, it takes a lot of time of adjudicator's hours that are occupied on other things.

Mr. Lupusella: If I may turn to the chairman, I think that whatever money is going to be spent on that, for a computer to be given to Dr. Mitchell's department, is well spent on behalf of injured workers. I do not think that either the employers or the people would complain about this extra expenditure. I would like to see a system in place that will split up the process of sending out the money to injured workers. Even though there is a disagreement on the approach between Dr. Mitchell and myself, I think that you are reaching the same goal: people reapplying and getting the allowance anyway.

If you have a computer, maybe--I agree with you that it will facilitate the process and it will not increase the manual work. I think that on the issue of clothing allowance you are dealing with people who are receiving a permanent disability pension in the first place, which is the first indication that the person has a back problem.

Dr. Mitchell: Not all of them, sir.

Mr. Lupusella: Give me the incidence when a person is receiving a clothing allowance and is not in receipt of the pension. I never met an injured worker--maybe you have other categories of injured workers who are receiving the clothing allowance without pension.

Hon. Mr. Alexander: When an injured worker is receiving a clothing allowance, he is given a letter by the pensions adjudicator explaining to him the method to go about applying.

Mr. Lupusella: I know that.

Hon. Mr. Alexander: That clothing allowance is built into his pension. It is not a yearly grant; it is built into his monthly pension. It is added on.

Mr. Lupusella: No.

Hon. Mr. Alexander: Yes, sir.

Mr. Lupusella: No, it is given in the form of a lump sum, unless--

Hon. Mr. Alexander: You are talking about two different things. You are not talking about one that is related to a permanent disability.

Mr. Lupusella: I am talking about the one related to the permanent disability award. On top of that, the clothing allowance provision is paid by the board in the form of a lump sum on a yearly basis. Which one are you talking about? Are we talking about the same thing?

Hon. Mr. Alexander: No, we are not. I am talking about the one that is built in and is added on to his monthly pension and is shown as a separate amount.

Mr. Lupusella: No, there is no problem with this kind of people. We still have a problem with the majority of people who are faced with a permanent disability award as a result of a back injury. They are receiving their monthly cheque on a permanent basis and they have to apply for a clothing allowance which is paid by the board in the form of a lump sum. Why do you have a disagreement over sending out the form to these people when there is a clear indication that the back injury is there and the permanent disability award is there?

Dr. Mitchell: They are given the form on the first visit at the time that their pension is rated. No problem. We agree on that.

Mr. Lupusella: Okay.

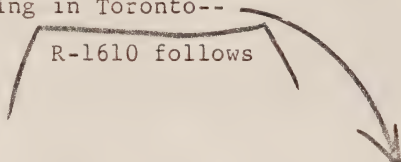
Dr. Mitchell: It is the follow-up we are talking about. What I say is, those people having been given the clothing allowance, if they continue to wear that brace--and a lot do not--then surely it is not a hardship to say, "I am still wearing my brace. I would like to file for continuation of the clothing allowance."

What I am saying is, we cannot take all of those who have gone through, write to them and ask them to send something back. It should be their initiative, I believe.

4:10 p.m.

Mr. Lupusella: Do you know why I am raising this issue, Dr. Mitchell? It is that millions of people living in Metropolitan Toronto are not related to your own culture. They do not know how to write or read English. Maybe you are speaking to your own constituents who were born here and went to school here. They know how to apply and they know how to write a letter. The majority of people living in Toronto--

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sh
(Mr. Lupusella)

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-- maybe you are speaking to your own constituents who were born here, who went to school here. They know how to apply and they know how to write a letter. The majority of people living in Toronto, they do not know how to write or read English. I am talking about immigrants coming from other countries. I am trying to facilitate the process on behalf of these people.

You might argue that they should not be so lazy in applying but if they knew how to write there would be no problem and I would agreed with you. But I am trying to facilitate the process of these people who go from one agency to the other, to have a simple letter drafted and sent to the board. Why do you have difficulty accepting this principle?

Hon. Mr. Alexander: I think your point is well taken. I think Dr. Mitchell has tried his best to explain. I think what you are saying or at least what he said, was in the initial step that that information is given to the injured worker. I think the problem, if there is a problem, and you seem to think there is one, is that sooner or later down the process or the steps--

Mr. Lupusella: Maybe the injured worker stops from waiting at that other place.

Hon. Mr. Alexander: But at the same time I think what you are saying is perhaps there should be an intermediate step somewhere to remind or to inform the injured worker, something to the effect, "Are you still wearing your brace, or do you want your brace, or what is the position now?"

We are back to the same problem when you say the cultural background. I guess you know we have the facility of speaking and communicating in some 40 different languages. It gets to be a problem to determine whether it should be in Italian, Portuguese, Greek, Swahili. I am not trying to make light of that. But I think in light of your concern I would think Dr. Mitchell would say we will look at this particular issue.

Mr. Lupusella: You were supposed to look at it last year.

Hon. Mr. Alexander: That is what he said. There has been progress made. I think what you are asking for now is another--other than the original letter, it is a question of when we get involved again in terms of reminding the injured worker that he is entitled to a brace, is he wearing it and does he want it.

Mr. Lupusella: Let us not confuse the issue. There is a problem about manual work and I agree with you. You see how frank I am. I guess that is your major concern, manual work which will increase if the board will take the initiative of reviewing the file and trying to process the application, coming to your department as a result of that initiative.

But such process is already in place when the injured worker takes the initiative. Your department has to review the file, has to review the entitlement of clothing allowance and then the lump

(Mr. Lupusella)

sum is paid to the injured worker. I think the work is there even though the injured worker takes the initiative of right into the board.

I am concerned about the manual work even though it should not be because you are already doing what you are supposed to do on a manual basis, I support the principle of a computer. That should be there. You have the names of people at the initial stage who got pensions and they applied for a clothing allowance. So the follow up process of sending out a form with several questions for how long they have been wearing the brace, since 1983 to 1984, the injured worker has to answer. If he answers that he did not wear the brace it does not entitle him to the clothing allowance, so you can have a full picture as to whether or not the clothing allowance is required.

Along with the standard letter you can easily say, "Go and see your family doctor and attach a medical report as to whether or not you need a brace." This would be the evidence which would clear your mind, because you have a medical mind as a profession, that the person really needs the brace.

The only thing which she or he has to do is to go and pay a visit to the attending physician which will be attached to the form. Why is it so difficult to endorse such a concept? We do not want to give the money away without entitlement. You have all the assurance that the person is wearing the brace. You have a medical report attached. You have all the questions which he or she has to answer which will satisfy the medical profession ?? and you send out the money. Why is it so difficult?

Hon. Mr. Alexander: Mr. Lupusella, I do not think it is so difficult. I think--

R-1615-1 follows



...she has to answer which will satisfy the medical profession at 2 Eloor Street East and you send out the money. Why is it so difficult?

Hon. Mr. Alexander: ~~I do not think it is difficult.~~ What the doctor was stating--he will check me if I am wrong--is that the department is aware of your concern, which I guess is legitimate, as I listen to you, and he said, if I have not misunderstood him, that they are working on something which will--he has just seen the grant--

Mr. Lupusella: No. He rejected the second part, I guess. We have to be clear. He endorsed the first part about ??temptations, but he rejected the second aspect of my concern, with great respect. I am trying to convince him that there is no change whatsoever on what the board is already doing on a manual basis.

Dr. Mitchell: Could I answer that? If 1,000 people were given a clothing allowance, and we know approximately 500 would stop wearing them, would it not be better to ask those 500 to send us a note to say they are continuing it? Or should be go through all that exercise with the 1,000?

Mr. Lupusella: Then we get into the problem of communication. The people who do not know--they go crazy finding someone who wrote the letter--it is easy if the board take the initiative to at least alleviate this ethnic injured worker's concern.

Dr. Mitchell: You asked us originally about a form, which was worked on. It was held up when Bill 101 was being debated because we would not know which way the clothing allowance would go. However, it has been worked on and a final draft is approved. We have fulfilled that obligation. I guarantee you we will look at the problem again, not from the form point of view but on whether we should get involved in follow-up. We will take the initiative.

Mr. Lupusella: Can I get a statement from the chairman to endorse the concept of a computerized system to facilitate the whole process?

Interjections.

Mr. Lupusella: You are already doing what you were supposed to do any rate, but for the sake of efficiency I am supporting what you are suggesting.

Hon. Mr. Alexander: This is the kind of undertaking I will give you. If and when Dr. Mitchell, who has to come to the board on budgetary processes or as the case may be, if and when that comes before it, knowing how important the matter is, it will be given very serious consideration. In the long run he will probably get it because our role is to see to it that the service

(Hon. Mr. Alexander)

to which the injured worker is entitled is foremost and effective one. If and when he comes up, it will be looked at very carefully. Usually when these executive directors and people come before the board about budgetary planning, they get--but if it is not required at a time, or if we cannot afford it, we say no. I can give you that undertaking. Does that assist you?

Mr. Lupusella: I would not like to wait another year before seeing the system being implemented. I hope you will do that as soon as possible with guarantees given by the chairman of the board.

Hon. Mr. Alexander: Could we move along? I do not want to cut you off, but I--did you answer the prescription part?

Mr. Lupusella: Yes. About the prescriptions, there is another problem there.

Hon. Mr. Alexander: Did you want that addressed now?

Mr. Lupusella: Yes, please.

Dr. Mitchell: What is the concern? I am not sure what you are getting at?

Mr. Lupusella: First, you have to explain the process presently existing at the board when a prescription is sent there.

Dr. Mitchell: One has to recognize that in our assessment of what prescriptions to pay for, we have to look at those related to the injury and those related to other noncompensable causes. That is where the crux of the matter is.

For example, a patient may have had a previous ulcer in his stomach. He develops a back injury and takes a lot of aspirins to relieve the pain, and the ulcer flairs again. His doctor then prescribes him medicine for the ulcer. Sometimes, it is not completely apparent to those who are adjudicating if that is related to the injury and its treatment or whether it is something quite unrelated. It is often a matter of communication. We do see a number of letters from patients complaining of having asked for a drug which was not allowed although it resulted from the injury and the medication I took. In most of those cases, it is allowed. The benefit of the doubt is given.

There are some situations where patients will be quite incensed that their insulin which previously they have had paid for is not being paid for by the board subsequently to the injury. It is their perception that things are now being covered by the board, and that includes everything, but it is not related to the accident.

4:20 p.m.

Mr. Lupusella: Can you explain why there are so many pharmacists who are not willing to send the prescription to the board?

(R1620 follows)

(Dr. Mitchell)

...and I think it is their perception that things are now being covered by the board, and that includes everything, but it is not related to the accident.

Mr. Lupusella: Can you explain then why there are so many pharmacists who are not willing to send the prescription to the board? They want payment direct from injured workers. Maybe there is some work in communication which must be done between board officials and pharmacists, particularly here in Metro. I do not know about the overall picture of a pharmacist across Ontario. I really do not know, but in Metro I know there are several pharmacists who do not want to deal with the board because of the delay of payments for prescriptions. They are requesting money from the injured worker and he has to submit the bill or bills to the WCB for payment. Is there any way you can improve the profile of the board among the pharmacists so they have to send the prescriptions for payment instead of getting the money from injured workers and being faced with delays which have been part of the criticism before this committee?

Dr. Mitchell: The pharmacists are paid a fee for prescribing a drug. It may be they find they can charge a better fee to the individual by applying to the board. I do not know the answer to that, quite frankly.

Mr. Lupusella: What kind of fees do you have?

Dr. Mitchell: I cannot tell you that offhand.

Mr. Lupusella: Is it based on the nature of the chemical composition of the medication?

Dr. Mitchell: It is a prescription fee. It is for prescribing a medication. I just cannot tell you off the top of my hand that exact fee, but it is negotiated. It is adjusted with the cost of living. I could find that out probably fairly quickly but I do not have it at my fingertips.

Mr. Lupusella: Is there any way the board will undertake a program with pharmacists here in Metro to make sure there will be some profile coming from the better, a better picture of payments, because a lot of pharmacists do not want to deal with the board because of delay of payments. If you do some public relations, either with letters or pamphlets, maybe the profile of the board will be changed in the pharmacists mind.

Hon. Mr. Alexander: I thought we had some rapport with the pharmacists as we have with the Ontario Medical Association, as we have with the Chiropractor's Association and a number of associations. What you have suggested does make sense. I am sure that Dr. Mitchell does from time to time write articles, periodicals, and we are all in touch with these various segments of the health treatment agencies. I can see no reason why Dr. Mitchell would not want to upgrade or enhance the particular program he has now, with respect to reaching all these various individuals, one of which is the pharmacists. I am sure he will look into that, but we do have an ongoing process.

Mr. Lupusella: There is an image of delay in payments of a prescription. Maybe there is some work to be done to clear the situation so injured workers when they go to a pharmacy, the pharmacist will take the initiative to refer the prescriptions.

Dr. Mitchell: There is a point that needs to be clarified. We certainly will look at it. I think part of the reluctance may be the pharmacist does not know if the board is eventually going to say this drug is related to his compensable injury. I can understand that. They may say, "I do not know if this is something you have been taking for years and the board is not going to pay for."

Hon. Mr. Alexander: That is a very important point.

Dr. Mitchell: That may be the problem here. I do not think you can get round that. A judgement has to be made at the board's office. "Yes, this drug is permitted under this particular--"


Mr. Lupusella: I understand the process, but perhaps the pharmacist can spend a few minutes--they usually do--for clarifying the content of medical prescriptions by calling the family doctor.

Dr. Mitchell: I do not see that as the problem. It really is whether that drug is part of the treatment for that compensable injury.

Mr. Lupusella: If there is a fault, then it is to be placed on the family doctor who prescribes the medication.

Dr. Mitchell: No, he is treating the whole patient. He has to prescribe what is involved for that whole patient, part of which may be compensable, part of which may not be. The prescription goes to the pharmacist and he says, "Heck, I do not know ~~what to do~~."

R-1625-1 Follows



(Dr. Mitchell)

...he is treating the whole patient. He has to prescribe what is involved for that whole patient, part of which may be compensable, and part of which may not. Then the prescription goes to the pharmacist and he says: "Heck, I do not know which one."

Hon. Mr. Alexander: You deal with the whole person, Mr. Lupusella, so when a person attends at the pharmacist he will give him all sorts of pills, medication, and what not. I do not know whether the pharmacist asks: "Is this on behalf of your injury that resulted on the job?" I think this is what you are getting at. I know that if a person walks in and has a prescription the pharmacist will fill it. Then, the question is, for what is he paid? He will not get paid for something that is not related to the injury, or the disability. I guess that is the problem. I do not know how you syphon that out on the lower level. I have received other letters where some people have asked for payment for some \$150 worth of prescriptions but when I get the letter back it says: "Yes, he is entitled to some money but it is only \$50," so the other \$100 is out.

I think at this time, Mr. Lupusella, I would like to bring something else to your attention. You wanted to ask why had we not been provided with a copy of the 1981 pension survey when it had been promised. Mr. Cain has that for the committee at this time. Then I think you wanted an organizational chart. We have both of those which we will table now.

I am trying to run through a few more important matters here. There is something about employers' discriminating on the basis of disability. In other words, they would not hire. I think there was some question of when or if we could take the initiative. Prior to the introduction of Bill 101, and that specific section, there was room for debate in terms of what we could do. I think Mr. Darnbrough would like to address that.

Mr. Lupusella: Now you have the leverage.

Hon. Mr. Alexander: Yes, we will have the leverage, but I think he wants to direct his attention to this question right now.

Mr. Darnbrough: Mr. Chairman, Mr. Haggerty, Mr. Laughren and Mr. Lupusella raised is as one of their concerns so it is worthy of a moment or two's explanation.

Prior to Bill 101, we had taken the initiative to train all of our vocational rehabilitation field counsellors and, in fact, most of the staff at the board were familiarized with the changes that took place in the Human Rights Code approximately three years ago. Our position was that we wanted to be able to advise injured workers of their entitlement and rights under the Human Rights Code. We wanted, as well, to be able to help employers to understand their obligations.

(Mr. Darnbrough)

The change that has taken place now makes specific reference to workers' compensation in that the subsection that will be contained in the Human Rights Code will now read: "An injury or a disability for which benefits were claimed or received under the Workers' Compensation Act." I think what Mr. Alexander is saying to you is that this gives us an opportunity now to take a slightly more proactive position than we have in the past. We are looking at ways of carrying this message to employers through the media, through the advertising that we do in blitz campaigns, for instance, and through our own pamphlets and brochures that we produce for the information of injured workers. So what we are saying here is that the board is now in a position to take a more active role, and we intend to do so.

Mr. Lupusella: Maybe you can send me advice.

Mr. Chairman: Time is running out.

Hon. Mr. Alexander: We have documented all the possible questions raised by the members. We will write to you, sir, or the individual members, depending on which approach is more acceptable in answer to all of them. I am on Mr. Haggerty's case right now. What would happen if clinical pensions were commuted at age 65? We have all these down. We will attempt to get the answers back to you, sir, and from you to the committee in turn for distribution.

Mr. Chairman: If they come to the committee in care of the clerk and the clerk can then distribute them to all members of the committee.

4:30 p.m.

Hon. Mr. Alexander: We have a number for Mr. Laughren, plea for rehabilitation, workers separate ?? benefit when going from TD to supplement plus pension. ~~Why doesn't the board decentralize the pension department into medical offices. There are a number of them. A regional regional medical adviser makes a ruling by ?? Examination of white hand syndrome.~~

(Tape R-1630 follows)



...benefit than going from TD to supplement plus pensions? Why doesn't the board decentralize the pension department into regional offices? The regional medical adviser makes a ruling by reading the file without examination, right-hand syndrome. So there are a number of questions still outstanding and I undertake on behalf of colleagues that they will all be answered in due course, hopefully it usually is. In the very future, we will go back to the drawing board and various staff will become involved with these questions and we should have them in another month or so.

Mr. Lupusella: If I am the critic in the future, I am going to request more sittings so be prepared. Instead of five we are going to end up with 10, for sure.

I got an assurance from Doug that I am going to get my WCB policy board votes. I want to be on the record on such request. I am the critic and I know that copies have been distributed by the board to some of my colleagues and I did not get it as a critic so I wanted to put on record such request in Hansard so I am sure that I am going to get this policy book as soon as possible.

Mr. Cain: ??Mr. Hall and I assure you that you will get them.

Mr. Lupusella: Okay.

Mr. Chairman: On behalf of the committee, I would like to thank Mr. Alexander and his colleagues for appearing before us. I know that the committee members presented a lot of questions to you and you, of course, are committed to get those back to us in writing. We did not allow you enough time to respond to the questions.

Hon. Mr. Alexander: I am glad you put it that way, sir.

Mr. Chairman: I though it would be ??

Until next year, the committee is adjourned.

The committee adjourned at 4:32 p.m.

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